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ARIZONA CORP. COMM  
400 W CONGRESS STE 218 TUCSON AZ 85707

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

Docket No. E-04204A-08-0589

9 IN THE MATTER OF THE FORMAL COMPLAINT  
10 OF MARSHALL MAGRUDER FILED WITH THE  
11 ARIZONA CORPORATION COMMISSION ON  
12 DECEMBER 5, 2008

22 March 2010

13 **Fling of the Direct Testimony of Marshall Magruder**

14 This filing presents the case to require UNS Electric to fund student loans, as required by  
15 Commission Decision No. 61793, as compensation for damages that are at least \$108,000 in  
16 arrears as of the end of 2009.

17 This filing also includes an issue involving completion of 32 projects in a Plan of Action, with  
18 a budget over \$15 million, over 5 years to replace company-designated defective utility poles  
19 and defective underground cables in 32 projects in a Commission Staff Settlement Agreement,  
20 approved by Commission Decision No. 62011 and others. The Company is unable to provide  
21 adequate documentation to verify that these reliability projects were completed. This is a  
22 compliance issue without a way to verify if 3,080 defective utility poles or 159,388 feet of  
23 defective underground cables were replaced. Therefore, this Party is unable to pursue this issue.

24 The third issue is to require UNS Electric to setup a system so that ALL customers on life-  
25 support systems, if desired and applicable, can request to be notified during an electric outage,  
26 preferably through the Santa Cruz County Sherriff dispatching centers by First Responders. The  
27 present process is unsatisfactory. Only low-income customers in the limited CARES-M program  
28 can apply. This is my response to question from Commission Chairman Gleason in 2005 on  
29 "what will happen to those on life support during an outage" and is a customer safety issue.

30 I certify this filing has been mailed or delivered to parties on the Service List this date.

31 Respectfully submitted on this 22<sup>nd</sup> day of March 2010.

32 Arizona Corporation Commission

33 DOCKETED

34 MAR 22 2010

MARSHALL MAGRUDER

By

Marshall Magruder

PO Box 1267, Tubac, Arizona 85646

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**DIRECT TESTIMONY**

**OF**

**MARSHALL MAGRUDER**

**22 March 2010**

In the matter of

THE  
FORMAL COMPLAINT  
OF  
MARSHALL MAGRUDER  
FILED WITH THE  
ARIZONA CORPORATION COMMISSION  
ON DECEMBER 5, 2008

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Note: All Exhibits are self-numbered.



1 manner, so that the utility would call the Sheriff's dispatching center to inform them of  
2 the outage (that should also be done) and the names, addresses and phone  
3 numbers from a common list. Our County/City First Responders would notify, by  
4 phone or in person. Our Sheriff has requested a Memorandum of Understanding  
5 (MOU) so both company and his dispatching center use the same ground rules. The  
6 Company can include an annual/semi-annual flyer in its bills for those on life-support  
7 to apply for such notification. The MOU and company flyers need appropriate legal  
8 caveats to avoid liability suits. The Company now uses only its list of low-income  
9 customers with CARES-M (medical) rates. It has sent out a letter to each CARES-M  
10 customer asking if they wanted to release their life-support status to the Sheriff. I  
11 understand only six responded. In a recent UNS Gas case, based on its CARES  
12 data it appears only 6.1% of the total UNS Electric customers could even have a  
13 chance to apply. The only acceptable goal is that all 100% of those on life-support be  
14 given an opportunity to request such outage notifications. This clearly is a customer  
15 safety issue, prudent, thus its minimal cost should be allowable in next rate case.

16 It is recommended that 100% of the Customers be notified of this program.  
17 Further, if the Santa Cruz County version works, implementation statewide is further  
18 recommended.

19 All three of these issues were in Commission Decision No. 70360 with orders for  
20 the company. None, in this Party's view, were adequately completed; however, after  
21 several Procedural Conferences reviewing compliance with this Decision, it was  
22 determined by the ALJ that the Company did comply with all three issues.

23 I have requested that the First and Third Issues be considered in this hearing.

24 For the Second Issue, I have withdrawn my complaint since verification appears  
25 not possible.

26 For Third Issue, even if the company complied, it was to a bare minimal degree.  
27 The answer to former Commission Chairman Gleason's question remains open.  
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**DIRECT TESTIMONY  
OF  
MARSHALL MAGRUDER**

**SECTION 1 - INTRODUCTION**

**1.1 Introduction.**

**Q. Please state your name, background, occupation, education and address.**

**A.** My name is Peyton Marshall Magruder, Jr. I am a UNS Gas and UNS Electricity customer, two of the public service companies that serve Santa Cruz County. I was Vice-Chairman and a Commissioner on the Santa Cruz County/City of Nogales Energy Commission from 2001 to 2008. I am actively involved in many community projects including the AARP tax aide program as a Tax Counselor. My address is Post Office Box 1267, Tubac, Arizona 84546.

Attachment B provides additional information and Resume.

**Q. Why are you filing this direct testimony?**

**A.** I filed this Formal Complaint against UNS Electric, Inc., on 5 December 2008<sup>1</sup> concerning three issues. Each is related to a different Corporation Commission Decision and Order or to a Settlement Agreement between the utility, the City of Nogales or the Commission Staff. Some of the issues have been open for nearly a decade. Resolution for closure is essentially why I am here. The latest Procedural Order of 2 February 2010 provided the schedule for these hearings.

**Q. Why did you file this Formal Complaint?**

**A.** Previously to filing this Formal Complaint, I filed a "Motion to Demand Compliance with ACC Orders" on 7 November 2008 in the UNS Electric Rate Case (Docket No. E-04204A-06-0783)<sup>2</sup> concerning all three of these issues. This motion was not acted upon.

A Formal Complaint was then filed so that a response could resolve three issues remaining from the Rate Case. The Formal Complaint process appears as only way to resolve these issues as the Company's actions taken were considerably below my expectations, and, I believe, also below the expectations of the various ALJs, Commission Staff personnel and Commissioners at that time of their various Decisions on these matters.

**Q. Was your "Motion to Demand Compliance" the first time any of these issues had been brought forth to the Commission?**

---

<sup>1</sup> This opened Docket No. E-04204A-08-0589.

<sup>2</sup> This case was concluded with the issuance of ACC Order No. 70360 (27 May 2008).

1 A. No. All had been presented previously, some in several cases, as presented below.  
2 All three issues were a part of the UNS Electric Rate Case. All three were in the  
3 background and Order Sections of the Commission's Opinion and Order No. 70360 (27 May  
4 2008). The Formal Complaint Motion was filed only after no more action by the company was  
5 expected. Each issue has specifics mentioned in the Order to be accomplished after approval.  
6

7 **1.2 Summary of Issues.**

8 **Q. Can you briefly summarize the three issues?**

9 A. The three issues in the Formal Complaint of 5 December 2008 are summarized below.  
10

11 **Issue 1** – Failure to fund four-year student loans to attend an Arizona school required in  
12 Commission Order No. 61793 (2 November 1999) and its embedded Settlement  
13 Agreement with the City of Nogales, hereafter “**Issue 1**” or the “**Unfunded Student**  
14 **Loans**” issue. Funding is \$108,000 in arrears as of 31 December 2009. See Section 2.  
15

16 **Issue 2** – Failure to complete 32 projects to replace defective utility poles and underground  
17 cables in a Plan of Action (POA) that was within an ACC Staff-Citizens<sup>3</sup> Settlement  
18 Agreement, as ordered by the Commission in ACC Order No. 62011, et al, hereafter  
19 referred to as “**Issue 2**” or “**Incomplete Replacement Utility Pole/Cable Replacement**  
20 **Projects**” issue. These 32 projects had a Commission-approved 5-year budget that  
21 exceeded \$15 million. See Section 3.  
22

23 **Issue 3** – Failure to implement an effective program to notify ALL of its customers on life-  
24 support equipment during an electrical outage, hereafter referred to as “**Issue 3**” or “**A**  
25 **Program to Provide Notification of ALL Customers on Life-Support during an**  
26 **Electrical Outage**” issue”. Resolution of this safety issue has insignificant cost other than  
27 establishing a protocol between the utility and appropriate government agencies. See  
28 Section 4.  
29  
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34 <sup>3</sup> The term “Citizens” will be used as the name of the electric utility company that had a service territory in Santa  
35 Cruz County, which operated under the names of Citizens Utilities, Citizens Arizona Electric Division, and  
Citizens Communications Company, since 1999, all of which are herein represented by “Citizens”.

Section 2 - ISSUE 1  
UNFUNDED STUDENT LOANS

2.1 Summary of this Issue called "Unfunded Student Loans".

**Q. Can you summarize the issue?**

**A.** Commission Decision and Order No. 61793 of 29 June 1999 states:

"13. Under the terms of the Revised Settlement Agreement, Citizens [UNS Electric] will:

- (a) fund direct payments of \$15 to all customers in Santa Cruz County;
- (b) provide a neutral claims resolution procedure for all customers in Santa Cruz County;
- (c) fund low income relief for Nogales residents;
- (d) fund Santa Cruz County economic-development efforts; and
- (e) fund four-year, interest free loans for Santa Cruz County high school graduates.**

"Citizens and Nogales will:

- (a) create a Citizens Advisory Council;
  - (b) collaborate to determine the order in which circuits are energized in the event of future transmission-related outages;
  - (c) develop a mutually acceptable service upgrade program for submission to the Commission;
  - (d) negotiate a mutually acceptable 25-year franchise for Citizens."
- [Order and Decision No. 61793, p. 3 in **Exhibit M-A** p. 4, emphasis added]

These words are clear and speak for themselves: Citizens [now UNS Electric] will fund four-year, interest free loans for Santa Cruz County high school graduates.

**Q. What did the Revised Settlement Agreement say about these student loans?**

**A.** There are two references to these loans. First is in the Recitals of the Agreement:

**RECITALS**

"A. As a result of extensive discussions, the City of Nogales, Arizona ("City"), and Citizens Utilities Company ("Citizens"), (collectively, the "Parties") have agreed to resolve all issues raised in or relating to the City's Complaint before the Corporation Commission ("Commission").

**B. Citizens will be providing compensation to the City and its customers for past damages relating to its provision of electric service by:**

- 1. Funding direct payments to all customers in Santa Cruz County (Article 1);
- 2. Providing a neutral claims resolution procedure for all customers in Santa Cruz County (Article 2);
- 3. Funding low income relief for City Residents (Article 6);
- 4. Funding Santa Cruz County economic-development efforts (Article 7);
- 5. **Funding four-year, interest free, loans for Santa Cruz County high school graduates that will be forgiven in the student returns to live and work in the County (Article 9).**

**C.** To improve future electric service and improve community relations, Citizens and the City will:

- 1. Create a Citizens Advisory Council (Article 3);
- 2. Collaborate to determine the order in which circuits are energized in the even of future transmission-related outages (Article 4);

- 1 3. Develop a mutually acceptable Service Upgrade Plan for submission to the  
2 Commission (Article 5);  
3 4. Negotiate a mutually acceptable 25-year franchise for Citizens (Article 8).  
4 D. The City will dismiss its complaint in the above-captioned docket with prejudice  
5 (Article 10).”  
6 [Decision No. 61793, p. 1-2, in **Exhibit M-A**<sup>4</sup> p. 9, emphasis added]

7 This “Revised Settlement Agreement between the City of Nogales, Arizona and Citizens  
8 Utilities Company”<sup>5</sup> of 1 June 1999 resolved the Amended Complaint by the City of Nogales  
9 against Citizens for poor performance and compensation for damages due to low reliability of its  
10 electrical service. This Agreement has five “compensation of damage” actions including annually  
11 funding for a four-year, interest-free student loan of \$3,000 per year to a Santa Cruz County high  
12 school senior to attend an Arizona college.

13 The second reference in the Settlement Agreement is Article 9 that states:

14 **“9. Educational Support.**

15 “A skilled, knowledgeable work force will be a key to Santa Cruz County’s  
16 success in the 21<sup>st</sup> century. Following the Parties’ execution of this Revised Settlement  
17 Agreement, the City and Citizens will work together to develop an educational  
18 assistance program to assist worthy Santa Cruz County high-school senior attend the  
19 Arizona college of their choice. Each year, the program will select one County senior  
20 for a four-year interest free loan to assist with tuition, books, and miscellaneous  
21 college expenses. If, following graduation, the student returns to Santa Cruz County to  
22 live and work, the loan will be forgiven. **Citizens will contribute \$3000 per year, per**  
23 **student, toward this program.** Other contributions will be solicited from other bene-  
24 factors to expand this program even further, such as to cover some portion of room  
25 and board, graduate school, or vocational programs.”

26 [Decision No. 61793, p. 7, in **Exhibit M-A**, p. 14, emphasis added]

27 Neither Citizens nor UNS Electric fully complied with this Order and Settlement  
28 Agreement. Specifically this is under-funding the annual amount of \$12,000 in this Agreement.  
29 Only “Scholarships” not student loans have been funded to date. Table 1 below shows the annual  
30 and cumulative compliance status. The student load program is \$108,000 or more in arrears as  
31 of 31 December 2009 even if considering student funding that does not meet the Order and  
32 Agreement’s conditions, e.g., scholarships. Information about these student loans<sup>6</sup> shows that:

- 33 a. No loans were awarded, only scholarships without any conditions.  
34 b. No scholarships were for four-years to attend college, all were for only 1 year.  
35 c. No scholarships were awarded between 2003 and 2008.

36 <sup>4</sup> All Exhibits in **bold** are found in Attachment A.

37 <sup>5</sup> The term “Citizens” will be used as the name of the electric utility company that has a service territory in Santa  
38 Cruz County, which operated under the names of Citizens Utilities Company, Citizens Arizona Electric Division,  
39 and Citizens Communications Company, all of which are herein represented without distinction by “Citizens”.

40 <sup>6</sup> Please see **Exhibit MM-1**, and its **Exhibit M-B** that provides the status of these “scholarships” through 2009.



- d. All scholarships were initially awarded to the Nogales High School graduates, none awarded to Rio Rico or the Alternative High School graduates until 2008 or 2009.
- e. Only 3, of the first 7 scholarships, were awarded to students attending Arizona colleges; schools attended to those awarded by UNS Electric are unknown.
- f. The first 2 were "Jose Cañez Manorial/Citizen Energy" scholarships, in **Exhibit MM-8**,

See Table 1 for total financial details of the scholarship loan program to date.

**Table 1 – Status of the Scholarship/Loan Program though end of 2009.**

Cal-endar Year	Number of Awards	Attend Arizona college	Total Awarded this Year	Total To Be Awarded this Year	Total Awarded To Date	Total To be Awarded to Date	Total Deficient
<b>Awards by Citizens</b>							
1999	1	No	\$1,250(1)	\$12,000	\$1,250	\$12,000	\$10,750
2000	2	Yes, Yes	\$4,250(1)	\$12,000	\$5,500	\$24,000	\$18,500
2001	1	No	\$3,000	\$12,000	\$8,500	\$36,000	\$27,500
2002	1	No	\$3,000	\$12,000	\$11,500	\$48,000	\$36,500
2003	2	Yes, No	\$3,500	\$12,000	\$15,000	\$60,000	\$45,000
<b>Awards after the Acquisition by UNS Electric (2)</b>							
[UniSource Energy, Inc. purchased Citizens on 29 October 2002, effective 11 August 2003]							
2004	0	0	0	\$12,000	\$15,000	\$72,000	\$57,000
2005	0	0	0	\$12,000	\$15,000	\$84,000	\$69,000
2006	0	0	0	\$12,000	\$15,000	\$96,000	\$81,000
2007	0	0	0	\$12,000	\$15,000	\$108,000	\$93,000
2008	1	Unknown	\$1,000(3)	\$12,000	\$16,000	\$120,000	\$104,000
2009	4	Unknown	\$8,000(4)	\$12,000	\$24,000	\$132,000	\$108,000
<b>ANNUALLY, thereafter</b>				<b>\$12,000</b>			

**Notes:**

- (1) These awards are annotated "Jose Cañez Memorial/Citizens Energy" in **Exhibit M-B** that were advertised by Citizens in the *Nogales International* in 1999 as \$5,000 annual scholarships in memory of a Citizens employee named Joes B. Cañez. It appears none of these Cañez Memorial scholarships were for \$5,000 described in **Exhibit MM-8**. This program started prior to the Settlement Agreement.
- (2) UniSource Energy acquired Citizens and created a new electric public service company, UNS Electric, Inc., a subsidiary of UniSource Energy Services (UES), a holding company.
- (3) Awarded by UNS Electric and UNS Gas, the two public service companies that are held by UES.
- (4) Awarded by UniSource Energy Services (UES).

All these one-year "scholarships" were without any conditions to attend an Arizona school or that the awardees would return to work and live in Santa Cruz County.<sup>7</sup>

**Q. Is this Settlement Agreement important to the ratepayers and local government?**

**A.** The City, acting for customers in the County, was so displeased with electricity service it terminated its Citizens franchise agreement and filed a Complaint to the Commission. Both actions are clear evidence of their position. After negotiations, the Settlement Agreement was approved by the City Council and incorporated in the Commission Order.

<sup>7</sup> See **Exhibit M-B**, where Ms Romero states they have were not told of any conditions by Citizens.

1 **Q. Why is completion of these Settlement Agreement obligations still important?**

2 **A.** First, the Articles were mandated in Commission Order No. 61793.

3 Second, each is mitigation and considered vital to allow the utility to continue operations.

4 Third, each had important and defined benefits for all ratepayers and as compensation or  
5 liquidation of damages caused by poor service in the Santa Cruz County service area.

6 Fourth, they are to improve cooperation between the community and the utility, provide  
7 positive public relations opportunities, establish a plan to improve the reliability of electric  
8 service, and fulfill needs for understanding and improvement with a Citizens Advisory Council.

9 Electricity services are continuous. Most agreements and orders made during Citizens'  
10 ownership continue today. UNS Electric obligations are unchanged (except for the company's  
11 name and address to UNS Electric, Inc. which took over three years to accomplish in the phone  
12 book). None of these Agreements and Commission Orders was modified on 11 August 2003.  
13 Corporate "amnesia" is an unacceptable excuse for broken promises and agreements made  
14 earlier, in some cases, by the same former Citizens' employees now employed by UNS Electric.  
15

16  
17 **2.2 Conditions in Commission Order and Decision No. 61793 are related to Issue 1**

18 **2.2.1 The Decision Resolved the City of Nogales Complaint.**

19 **Q Does this Commission Order and Decision resolve the City of Nogales Complaint?**

20 **A.** Yes. In paragraph 12, the Order the states:

21 " 12. On June 2, 1999, Nogales filed a Motion to dismiss Amended Complaint  
22 **with Prejudice** and a copy of a Revised Settlement Agreement between the  
23 parties. A copy of the Revised Settlement Agreement is attached hereto as  
24 Exhibit A, **and incorporated by reference**. In its Motion, Nogales asserts that the  
25 Revised Settlement Agreement resolves all outstanding claims that were brought  
26 or might have been brought in its Amended Complaint against Citizens and  
27 requests that the Commission dismiss the Amended Complaint **with prejudice**."  
[Decision No. 61793, ¶12, at 21-28, in **Exhibit M-A**, p. 3, emphasis added]

28 **2.2.2 The Decision Incorporated a Revised Settlement Agreement.**

29 **Q Does the Decision and Order incorporate the Revised Settlement Agreement?**

30 **A.** Yes, as shown above in paragraph 12.

31 **2.2.3 The Decision Dismissed the City of Nogales Amended Complaint with Prejudice.**

32 **Q. What is the difference between dismissal "with prejudice" and "without prejudice"?**  
33  
34  
35

1 A. Based in the definitions in *Black's Law Dictionary*<sup>8</sup>, then this case cannot be reopened by  
2 the City since it was a "dismissal with prejudice", as stated paragraph 12 above.

3 **2.2.4 The Decision "Ordered" Citizens to fund four-year, interest free loans.**

4 **Q. Does the Commission Decision require four-year, interest free loans?**

5 A. In paragraph 13, the Order states:

6 "13. Under terms of the Revised Settlement Agreement, Citizens will: ...  
7 (e) **fund four-year, interest free loans for Santa Cruz County high school**  
8 **graduates.**" [Decision No. 61793, at 1 and 8; in **Exhibit M-A**, p. 4, emphasis  
9 added]

10 Therefore, these words, "will fund four-year, interest-free loans" as read and means that,  
11 each award should be for four-years, not for one-year as previously shown in Table 1 above.

12  
13 **2.2.5 The Citizens Advisory Council.**

14 **Q. Can you discuss the Citizens Advisory Council (CAC)?**

15 A. Yes. The Commission mandated in Commission Order No. 61793, that a Citizens Advisory  
16 Council (CAC) be created by the Company to improve future electricity service and as  
17 communications mechanism in order to improve a negative public relations attitude, including  
18 termination of the City of Nogales franchise, and to open communications and collaboration  
19 between this utility and the local citizens.

20  
21 The Company is required to have a CAC by the Commission so that local issues are  
22 discussed. The Santa Cruz CAC last met in September 2001. Issues the Company could discuss  
23 with local citizens to obtain feedback include those that the Order specifies such as "future  
24 filings" as both an UNS Electric and UNS Gas Rate Cases are now before the Commission but  
25 almost no information is known at the local level other than a filer their billing statements and a  
26 Public Notice. DSM, REST, and EE are important concepts that the public needs to understand.  
27 Local participation essential to determine the best ways to meet Company's goals to benefit all.

28  
29 A second transmission line issue has not been resolved, and TEP missed its mandated  
30 operational date of 31 December 2003 and obtained a waiver of a \$30,000 per month penalty for  
31 liquidation of damages for missing this absolutely "critical and the lights will go out" deadline.

32  
33 <sup>8</sup> *Black's Law Dictionary*, St Paul: West Group, abridged, 7<sup>th</sup> ed., 2000, p. 380 defines *dismissal without prejudice* as "A  
34 dismissal that does not bar the plaintiff from refiling a lawsuit within the applicable limitation period," and *dismissal*  
35 *with prejudice* as "A dismissal, usu. After an adjudication on the merits, barring the plaintiff from prosecuting an later  
lawsuit on the same claim. If, after a dismissal with prejudice, the plaintiff files a later suit on the same claim, the  
defendant in the later suit can assert the defense of *res judicata* (claim preclusion)."

1 **2.3 Conditions in Revised Settlement Agreement Related to Issue 1.**

2 **2.3.1 This Agreement Has a Binding Successor provision.**

3 **Q. Did this Revised Settlement Agreement contain a succession provision?**

4 **A.** Yes. In Article 10 (Miscellaneous) this Agreement states:

5 This Revised Settlement Agreement binds the successors and assign of the  
6 Parties." [Article 10, p. 8, in **Exhibit M-A**, p. 15]

7 **Q. Does this apply to UNS Electric, Inc., as a successor to Citizens?**

8 **A.** Yes, this is clear. I read these words say that UNS Electric, Inc. is the successor to  
9 Citizens and that the Revised Settlement Agreement binds UNS Electric to the Revised  
10 Settlement Agreement including Article 9, Educational Support.  
11

12 **2.3.2 The Binding Nature of the Decision and Settlement Agreement.**

13 This is discussed with clarity in a letter, "Re Settlement Agreement Between the City of  
14 Nogales and Citizens Utilities, Co.," dated 24 June 2008 from the City of Nogales Deputy City  
15 Attorney Michael Massee to Michelle Livengood, TEP Regulatory Counsel. This letter is in  
16 **Exhibit MM-2** in Attachment A and was filed with the Commission on 18 November 2009.  
17

18 Ms Livengood was under the mistaken impression that a Memorandum of Understanding  
19 "Re- Miscellaneous Closing Issued" dated 11 August 2003 (date the ownership changed) may  
20 delete part of the Asset Purchase Agreement (electric) of 29 October 2002. This letter from City  
21 of Nogales Attorney firmly rejected such an argument by stating:  
22

23 "Importantly, neither the Settlement Agreement or the Opinion and Order  
24 reference the Memorandum of Understanding, which appears to be a later  
25 document not yet in existence at the time of the Settlement Agreement and  
26 Decision were entered. Thus, I question whether such a document can be  
27 binding on anyone other than the parties thereto in such a highly-regulated and  
28 exhaustively litigated environment. (As an aside, the parenthetical assertion  
29 made in Section 2.3(i) of MOU that there were no issues current with the City's  
30 complaint, which is asserts have been dismissed with prejudice, does not  
31 appear to be factually correct. Pursuant to the terms of the City's Settlement  
32 Agreement, jurisdiction in the ACC was reserved for enforcement purposes, as  
33 certain provisions created long-term obligations. Thus, this self-serving  
34 statement does nothing to affect the binding nature of the Settlement  
35 Agreement or its express terms).

"Moreover, there appears to have been an earlier version of Schedule  
2.3(i) that did not include the strikeouts and parenthetical language that appear  
in the MOU you emailed me. I am enclosing herewith another version of  
Section 2.3(i), which is identified by Bates No. JA/0401-00000896. This

document was produced to Marshall Magruder in response to his Second Set of Data Requests in Docket No. E-01032A-99-0401, and was the response to the Joint Applicants to Mr. Magruder's question regarding the transition or changeover plan ensuring all prior commitments of Citizens were addressed. Thus, it appears that at one time UNS Electric did intend to assume Citizens obligations under the Settlement Agreement with the City, and openly told this to Mr. Magruder. This obviously creates further doubts about [sic] what if any legal effect to be given to the MOU you emailed me.

"At any rate, I think we can agree that the document trail outlined above is anything but clear as to how Citizens and UNS Electric intended to deal with the continuing obligations created by the Settlement Agreement. In this situation, the terms of the Settlement Agreement should apply, which is that it bound not only Citizens but its "successors and assigns." If UNS Electric or its related entities disagree, then the burden should be on them to show why they should not be bound, and the MOU, either in isolation or in context with the other documents that I a [sic] mentioned above, does not appear to carry that burden." [City of Nogales letter to UNS Electric's Michele Livengood, 24 June 2008, in **Exhibit MM-2**, p. 3 and 4, emphasis added]

**Exhibit M-C** contains four Data Requests for information concerning implementation of Commission Decision No. 61793 but were denied as "being outside the scope of this rate case"

**Q. Does this mean UNS Electric is bound by Commission Decision No. 61793 and the Revised Settlement Agreement as the successor to Citizens?**

**A.** Yes. During the rate case evidentiary hearings in ACC Docket No. E-04204A-06-0783, UNS Electric stated in a section of its Reply Brief<sup>9</sup> of 19 November 2007, titled "Citizens' Obligations and Parties" it stated:

**"B. Citizens' Obligations and Projects.**

"As suggested by Judge Wolfe during the hearing, UNS Electric contacted Mr. Magruder and scheduled a meeting to discuss his concerns regarding the Citizens Settlement Agreement and certain reliability issues. UNS Electric Vice President and General Manager, Mr. Thomas Ferry, met with Mr. Magruder on October 16, 2007, in Tucson. While UNS Electric does not believe that it has violated or neglected any terms of that agreement, UNS Electric continues to work with Mr. Magruder to address his concerns.

"UNS Electric briefly addresses two allegations Mr. Magruder makes in his Opening Brief. First, Mr. Magruder states that "[e]ven though Mr. Pignatelli said seven scholarships have been awarded, my School Board contacts in Santa Cruz County state NONE have been awarded in compliance with this agreement."<sup>10</sup> Mr. Magruder's assertion has not been supported by any reliable

<sup>9</sup> It should be noted that Issues 1 and 3 were not mentioned in the UNS Electric Opening Brief and Issue 2 in that removal of \$15M from expenses recommend by Magruder should be removed. This paragraph B was the result of the Magruder Opening Brief that includes Issues 1, 2, and 3.

<sup>10</sup> Magruder Opening Brief at page 9, lines 10-12. [footnote 133 in UNS Electric's Reply Brief, p. 35]

1 evidence presented before the close of the evidentiary hearing on October 2,  
2 2007. Regardless, Mr. Pignatelli was correct: UNS Electric has, in fact,  
3 awarded seven scholarships to Nogales High School students from 1999  
4 to 2003 through the Nogales Educational Foundation. And, as Mr.  
5 Pignatelli stated at the hearing, UNS Electric will provide additional  
6 scholarships if that was the agreement.<sup>11</sup> Even though additional scholarships  
7 were not agreed upon, UNS Electric has nonetheless committed to fund  
8 additional scholarships not only for Nogales High School students, but also for  
9 Rio Rico High School students, over the next four years. [UNS Electric Post-  
10 Hearing Brief, 19 Nov 2008, p. 35 at 3-20]

11 First, the above "**Citizens'** Obligations and Projects" implies this pertained to Citizens and  
12 not to "UNS Electric's obligations and projects". This is erroneous. UNS Electric succeeded  
13 Citizens and is obligated to meet the requirements of the Citizens-City of Nogales Settlement  
14 Agreement.

15 Second, I had a meeting with UNS Electric Operations Manager Mr. Ferry, the only senior  
16 management employee who remained after the acquisition of Citizens by UNS Electric. I  
17 provided him a copy of the Commission Decision and Settlement Agreement. Because Mr. Ferry's  
18 offices are in Kingman, Arizona, in Mohave County, he told to me he was unaware of this issue at  
19 that time and would investigate. Nothing else resulted from this meeting with Mr. Ferry.

20 Third, the comment by Mr. Pignatelli "was correct UNS Electric has, in fact, awarded  
21 seven scholarships to Nogales High School students from 1999 to 2003" is also in error as UNS  
22 Electric did not exist prior to 2003, when Citizens had the obligation to award student loans.

23 Fourth, a limit of "four years" is contrary to the "annual" in the Settlement Agreement.

24 Fifth, the fact those were awarded through the Nogales Educational Foundation was the  
25 "new" information, denied in the Data Requests (**Exhibit M-C**) needed to determine the status of  
26 these awards. This caused my "Late Filed Exhibits" in that rate case which is **Exhibit MM-1** in  
27 Attachment A herein. Attached within **Exhibit MM-1** are relevant reference materials, labeled:

- 28 • **Exhibit M-A**, Commission Decision No. 61793 and Settlement Agreement
- 29 • **Exhibit M-B**, correspondence from the Nogales Educational Foundation
- 30 • **Exhibit M-C**, Magruder Data Requests that requested relevant information about  
31 implementation of Decision No. 61793
- 32 • **Exhibit M-D**. Citizens Plan of Action filed on 7 May 1999 with the 32 projects in Issue 2  
33

34  
35 <sup>11</sup> Tr. (Pignatelli) at 55. [footnote 134 in UNS Electric's Reply Brief, p. 35]

- **Exhibit M-E**, 1999 System Improvements Santa Cruz District related to Issue 2  
[These unique Exhibit designations **Exhibits M-A to M-E** are throughout this testimony.]

**Q. Why would you say that the ACC Order and Settlement Agreement binds UNS Electric, in the same way as they did Citizens?**

**A.** When UniSource Energy, Inc. purchased Citizens an Asset Purchase Agreement (Electric) (APA) was signed by both companies on 29 October 2002. This was the subject of Docket Nos. E-01933A-02-0914/E-01032C-02-0914/G-01032A-02-0914 that resulted in Decision No. 66028 (6 June 2003). I was an intervenor and asked via Data Requests and by oral questions if all ACC Orders that bound Citizens were also being transferred to UniSource Energy, Inc. The Nogales City Attorney was an intervenor. Decision No. 66028 states:

“At the hearing, Nogales’ request was granted to take Administrative Notice of Decision 61793 (June 29, 1999) wherein the Commission adopted a Settlement Agreement between Nogales and Citizens that required, in part, for those parties to negotiate a 25-year franchise to submit to the City’s voters for approval.” [Decision No. 66028. p. 25, footnote 9.]

**Q. Did the Asset Purchase Agreement refer to Decision No. 61793 and the Revised Settlement Agreement?**

**A.** Yes. This is discussed in detail in a letter dated 24 June 2008 from the City of Nogales Deputy City Attorney Michael Massee to Michelle Livengood, Regulatory Counsel, TEP as **Exhibit MM-2** in Attachment A.

### **2.3.3 Citizens Claims UNS Electric has the Responsibility for Annual Scholarship Funding.**

**Q. What is the position of Citizens on the Settlement Agreement between the City of Nogales and Citizens Utilities Company?**

**A.** In response to the Deputy Attorney for the City of Nogales letter of 28 June 2008 (**Exhibit MM-2**), the Citizens Communications Associate General Counsel responded with:

“Under Section 3.2(a) of the Asset Purchase Agreement, UniSource [a parent of UNS Electric] assumed “all liabilities of [Citizens] arising on or after the Closing Date under the Assigned Agreements.” The Revised Settlement Agreement is an Assigned Agreement and Assumed Liability which UniSource assumed responsibility for the annual scholarship funding under the Revised Settlement Agreement after the closing on August 11, 2003.” [Citizens letter of 31 July 2008, see **Exhibit MM-3**, emphasis added]

These words are also very clear. Noting in Table 1 above, no awards of any kind were made after 2003 until 2008. According to the *Nogales International*, the 2008 scholarship was

1 for \$1,000 and was awarded by UNS Gas and UNS Electric. UNS Gas is not a Party to this  
2 agreement. The 2009 awards are discussed in **Exhibit MM-4**, "UNS Electric, Inc., Status Update"  
3 filed in this docket on 13 January 2009.

4  
5 **2.3.4 This Agreement has a Not Severable Provision.**

6 **Q. Are parts of this Agreement severable?**

7 **A.** No. In Article 10 (Miscellaneous) this Agreement states:

8 The provisions of this Revised Settlement Agreement are not severable."  
9 [Article 10, p. 8, in **Exhibit M-A**, p. 15]

10 These words are clear and to me mean no part of this Agreement could be changed  
11 without renegotiating the whole Agreement.

12  
13 **2.3.5 This Agreement Requires that a Program Be Established.**

14 **Q. Did Citizens Establish a Program According to the Settlement Agreement?**

15 **A.** A program was established because Citizens did fund Santa Cruz high school seniors to  
16 attend a college of their choice. Citizens provided funds to the Nogales Educational Foundation,  
17 as stated in **Exhibit M-B**. The Foundation, an IRS Section 501(c)3 tax-exempt educational  
18 association, received the funds from Citizens, for the "Citizens Energy Scholarship." The Nogales  
19 High School (NHS) Educational Foundation selected the recipients "by an anonymous committee  
20 made up of NHS staff and administrators. The presenter was always Ernesto Ojeda," the Citizens  
21 Utilities Nogales Manager for many years and he was involved with this program.

22 The Citizens Energy Scholarship Program did not have any "conditions" from the  
23 Settlement Agreement. No conditions were provided to the NHS Educational Foundation. Ms  
24 Romero sent me **Exhibit M-B**. She told me the NHS Foundation would use any reasonable  
25 conditions associated with an award. Thus, these Citizens Energy Scholarships were awarded,  
26 without the mandated student interest-free loans or any other conditions. She had not seen the  
27 Settlement Agreement's conditions at that time until I sent them to her in December 2007.

28  
29 **Q. Did UNS Electric Establish a Program According to the Settlement Agreement?**

30 **A.** No. As shown in Table 1, no awards were made until 2008, after the UNS Electric rate case  
31 since late 2006. There were NO UNS Electric awards for the years 2004 through 2007, a \$1,000  
32 award in 2008, and an \$8,000 award in 2009. It is unknown if UNS Electric participated in the  
33 award presentations in 2008 or 2009. None met the conditions of the Settlement Agreement. It  
34 appears UNS Electric did not establish a program until several years after 11 August 2003.  
35



1 **2.3.6 Actions Taken to resolve these Unfunded Student Loans?**

2 **Q. When did this Party First Bring Up this Issue with UNS Electric?**

3 **A.** First, as an Intervenor during the UniSource Energy Acquisition of Citizens case that  
4 resulted in Commission Decision No. 66028 (3 July 2003), I orally asked were all the obligations  
5 under Citizens management, in particular, various Commission Decisions No. 61793, No. 62011  
6 and others, going to continue. The answer from UniSource and Citizens witnesses were yes.

7  
8 Second, as an Intervenor in the reopened Commission Decision No. 62011 in Docket No  
9 E-1032A-99-0401, I filed an extensive Testimony on 8 July 2005 that presented this issue in  
10 Appendix E. **Exhibit MM-5** is Appendix E titled: "Reliability Improvements Agreed to by Citizens  
11 in 1999 and Subsequent Compliance". In paragraph E.1.2, "Compliance with 'Funding Four-Year  
12 Scholarships'" it states:

13 "... this is an annual scholarship program. This has NOT been continued."  
14 [**Exhibit MM-5**, p. 132, emphasis in original.]

15  
16 Third, during these 99-0401 hearings, this issue was raised in both cross-examination  
17 and in my testimony. The Company objected and requested it be excluded in that case. The ALJ  
18 agreed and suggested it would be a good issue for the next UNS Electric rate case. Therefore, in  
19 2005, UNS Electric was well aware that this issue would surface again but no awards had made  
20 in 2004 and 2005 and none were made in the following years 2006 or 2007.

21  
22 **2.3.7 Actions Taken in Compliance with Decision No. 70360.**

23 **Q. What actions resulted from Decision No. 70360?**

24 **A.** As an Intervenor in the recent UNS Electric Rate Case (Docket No. E-04204A-06-0783),  
25 the resultant Decision No. 70360 provides:

26 "UNS Electric, Inc. shall initiate a meeting with Mr. Magruder, within 30 days of  
27 the effective date of this Decision, and file within 90 days of the effective date  
28 of this Decision, a statement regarding suggested resolution of the concerns  
29 raised by Mr. Magruder with respect to the student loans and scholarship  
30 issues."

31 This meeting was held on 20 June 2008 at Nogales City Hall. Present were the City  
32 Manager, Assistant City Manager (also former Police Chief), Assistant Superintendent of the  
33 Santa Cruz Valley Unified School District No. 35, a former Nogales Mayor who also was the  
34 Nogales High School Principal, and myself. UNS Electric had several attending, including one  
35 taking notes for "minutes" of the meeting, promised to participants but never received.

1           UNS Electric started the meeting by stating that UNS Electric has no obligations under the  
2 Settlement Agreement because there was a Memorandum of Understanding (MOU) between  
3 Citizens and UniSource Energy. It said no such obligations remained. UNS Electric said it would  
4 propose a new scholarship program. It was agreed that additional meetings would be held. This  
5 party has not been invited to any subsequent meetings.  
6

7           **Exhibit MM-2** is the letter from the City of Nogales on 28 June 2008 and **Exhibit MM-3** of  
8 31 July 2008 from Citizens that were subsequent to this meeting. UNS Electric received both.

9           **Exhibit MM-1** of 24 December 2007 is was given to others to show the documentation  
10 trail. UNS Electric (mostly TEP) representatives disagreed that the Order and Agreement  
11 pertained to their Company. Therefore, as required by Decision No. 70360, a "meeting was held",  
12 thus it is compliant. Obviously in my view, this was a poorly worded "order".

13           The Commission had determined the Company complied with the Order in the docket of  
14 the rate case. In a Procedural Order on 8 December 2009, ALJ Rodda states:

15           "UNSE and Mr. Magruder met pursuant to the requirements of Decision No.  
16 70360 on June 20, 2008. Although UNSE believes no formal loan or  
17 scholarship agreement is in place, in May 2009, UNSE provided four \$2,000  
18 scholarships to graduating seniors from Rio Rico High School and Nogales  
19 High School. The parties have disparate views on UNSE's continuing  
20 obligations with respect to providing the loans discussed in the agreement  
21 between the City of Nogales and Citizens. This dispute should be resolved in  
22 the context of the Complaint docket. With respect to the requirements of  
23 Decision No. 70360, however, UNSE has met its obligations and should be  
24 deemed in compliance with that Decision." [Procedural Order, 8 December  
25 2009, p. 3 at 5-12]

26           For the record, there is no requirement in the Settlement Agreement for a 'formal program'  
27 but from 11 August 2003 to 2008 UNSE had not awarded but one \$1,000 scholarship by "UNS  
28 Gas and UNS Electric", as reported in the *Nogales International* in the spring of 2008. This is well  
29 after this party's filed its "late exhibits" in **Exhibit MM-1**. No consideration has been given by the  
30 Company to ever follow the conditions and to comply with Commission Decision No. 61793.

31 **2.4   UNS Electric Ignored the Settlement Agreement and Tried to Establish a New**  
32 **College Assist Program.**

33 **Q.   Does this mean UNS Electric will have to request that Decision No. 61793 be re-**  
34 **opened so a New Scholarship program could be implemented?**  
35

1 A. Any changes to this Order will require re-opening of that docket as discussed in 2.3  
2 above. This will be required according to the Deputy Nogales City Attorney in **Exhibit MM-2**.  
3 UNS Electric, however, remains responsible for funding the existing Educational Support  
4 program in the Settlement Agreement according to **Exhibit MM-3**. The other option, as the City  
5 Attorney suggests, is simply comply with Decision No. 71793. These words say what they say, in  
6 my view, are clear. Now, let's see what UNS Electric is suggesting.

8 **2.4.1 UNS Electric's New "College Assist Program."**

9 **Q. Do you have any details on this program?**

10 A. Yes, however, requests for any such information from the company have been refused  
11 under the Arizona Rule 408 of Evidence concerning negotiations. In my view, how can a  
12 company "negotiate" when it cannot easily change the Agreement?

13 **Q. What has the Company said about the New College Assist Program?**

14 A. First, in the UNS Electric filing in the rate case docket on 25 August 2008, after the 20  
15 June 2008 "meeting" and after receiving both **Exhibit MM-2** and **Exhibit MM-3**, UNS Electric  
16 states in **Exhibit MM-6**:

17 "Upon review of the educational assistance program, UNS Electric realized  
18 that the following deficiencies existed:

- 19 1. Students were not required to attend Arizona schools;  
20 2. Students were not required to return to Santa Cruz County to live and work:  
21 3. Program funding has been inadequate; and  
22 4. **No student had been selected after 2003.** [**Exhibit MM-6**, p. 2, emphasis  
23 added]

24 For the record, UNS Electric did absolutely nothing between 2003 and 2008 to comply  
25 with Decision No. 61793. Data Requests for correspondence between the City and the company  
26 concerning these student loads between 2003 and 2007 were denied because of Rule 408.  
27 Citizens did make awards and underfunded each year from 1999 to 2003 as shown in Table 1.  
28 There is no record to determine if Citizens tried to obtain additional funding sources to expand  
29 this program as stated in the Settlement Agreement. However, the Citizens Nogales Manager, Mr.  
30 Ojeda was well known in the community and for a period in 2000 and 2001 was the President of  
31 the Nogales/Santa Cruz County Chamber of Commerce. He may have asked them funds.

32 The above "deficiencies" list is an abbreviated extract from pages 7 and 8 of **Exhibit MM-**  
33 **1** where 11 areas of "NON-COMPLIANCE" [emphasis in original] were listed as deficient. Those  
34 in **Exhibit MM-6** were not the results of any UNS Electric investigation.  
35

1 **2.4.2 Presentation of the New College Assist Program to the Nogales City Council.**

2 **Q. Was the New College Assist Program Presented to the City Council?**

3 **A.** Yes. On 5 November 2008, UNS Electric presented this program using two Proposals A,  
4 and B, as shown in **Exhibit MM-7**. In summary, this proposal fails to meet the requirements of  
5 the Settlement Agreement in the following areas that are addressed below:

6 **A. Limited in time to 15-years, not annual.** One objective of the Settlement Agreement is to  
7 improve public relations between the Company and the community. Each award could be a PR  
8 event for the company. CEO making the award, news releases, etc. and eventually, the 50<sup>th</sup>  
9 Annual UNS Electric Award winner is ...

10 **B. "Scholarship" versus Loan.** The Company seems to believe this is hard to implement. A  
11 clearly written "Application for Student Loan" that includes the conditions and a "Student Loan  
12 Agreement", upon acceptance, are used for most schools, thus 2 or 3 pages needs to be written  
13 and reviewed by an attorney. The Loan Agreement could include the bank account number for  
14 direct deposit if not returning to the County. Thus, administration should be minimal. Easy.

15 **C. One Year versus Four-Year Awards.** A major challenge for college students is funding for  
16 the second through fourth years of college. Funding for these years improves success rates and  
17 adds real value to the award, otherwise, its initial funds that might make a graduate.

18 **D. No Requirement to Attend an Arizona College or University.** This is to encourage students  
19 to return from the best in our state to their hometown.

20 **E. Consideration of the Needy.** These kinds of awards to sharp but needy students can make  
21 a significant difference for their families and neighborhoods in our communities.

22 **F. Emphasis on Science, Engineering, etc.** I am both of these but our community needs  
23 nurses (RNs), teachers, accountants, managers, and many other professionally educated citizens  
24 in the worst way. We have no need any nuclear engineers in this county.

25 **G. Awards of only \$8000 per year instead of \$12,000.** This is only 2/3rds funding compared  
26 to the Settlement Agreement, and for 15 years = \$120,000 versus \$180,000.

27 **H. And let \$108,000 be "bygones" and "just forget about it".** Well, they are in the hole right  
28 now some \$108,000 and after 15-years it would be (at \$4000/year), only \$160,000 in arrears  
29 compared to the Settlement Agreement. Not catching-up is not progress.

30 During this City Council meeting I discussed points above. The proposed "College Assist  
31 Plan" failed approval by a 4-5 vote by the City Council.  
32  
33  
34  
35

1 **2.4.3 UNS Electric Process for Approval of the New College Assist Program.**

2 **Q. How does UNS Electric propose to obtain approval of their new program?**

3 **A.** UNS Electric misunderstands the Settlement Agreement. It states in **Exhibit MM-6**:

4 "However, UNS Electric, City of Nogales and school districts officials are  
5 continuing to meet on the scholarship program and plan to submit a program  
6 for City Council approval in **early 2009**. Once the scholarship program has  
7 been fully developed and approved by the parties, UNS Electric will provide  
8 Commission Staff with a copy of the Agreement." [**Exhibit MM-6**, p. 3, 21-25,  
9 emphasis added]

10 It now is March of 2010, still no known progress and without direction, UNS Electric may  
11 not meet any conditions of the Settlement Agreement. A "copy of the Agreement" for the  
12 Commission Staff does not satisfy the conditions established by Commission Decision No. 61793.

13 **2.5 Jurisdiction for Making a Change to this Order and/or this Agreement.**

14 **Q. Who has jurisdiction if "activities" under this Agreement are unfulfilled?**

15 **A.** The Arizona Corporation Commission has continuing jurisdiction, as specified in Article  
16 10 (Miscellaneous) that states:

17 Citizens' activities under this Revised Settlement Agreement remain subject to the  
18 continuing jurisdiction of the Commission, by virtue of Citizens' status as a public  
19 service corporation under Arizona law." [Article 10, p. 8, in **Exhibit M-A**, p. 14]

20 **Q. Does the mean UNS Electric has to comply with this Decision and Agreement?**

21 **A.** The words in the Agreement say that UNS Electric, Inc., the successor, is bound to this  
22 Agreement and that parts of the agreement cannot be severed without the whole Agreement  
23 being reopened. If the Settlement Agreement is re-opened, it would still remain under the  
24 jurisdiction of the Commission.

25 **Q. Why is the jurisdictional issue important?**

26 **A.** During the process of resolving the City of Nogales Complaint against Citizens, the  
27 Commissioner knew that Citizens was for sale. This particular clause and changing "without  
28 prejudice" to "with prejudice" were the significant changes from the first Settlement Agreement  
29 and both were incorporated into the Revised Settlement Agreement.

30 The Commissioners were deeply concerned that exactly what has now occurred on this  
31 student loan issue could happen after the acquisition of Citizens by another entity. This party did  
32 not know this until fairly recently, after filing the Formal Complaint, in July of 2009 from reading  
33 local newspaper articles published during the Commissioner's local hearings on this matter.  
34  
35

1 **2.6 Background of Issue No. 1.**

2 **2.6.1 Events Leading to Commission Decision No. 61793.**

3 **Q. Can you review the sequence of events leading to the present situation?**

4 **A.** Yes. First I will discuss the general situation in Santa Cruz County in 1998 and 1999. Due  
5 to a large number of outages, some keeping the entire service area without power for hours,  
6 Citizens customers did more than just complain but to demand that reliability be restored.  
7 Weekly there were articles in the news about outages not only here but also in other Citizens  
8 Utilities-managed operations in Vermont, Hawaii, and others.  
9

10 Finally, the Mayor and Council filed "in the Nature of a Complaint by the City of Nogales  
11 Against Citizens Utilities Company, Santa Cruz Electric Division – Complaint" on 10 October  
12 1998.<sup>12</sup> The City alleged that

13 "... numerous electric outages caused by Citizens' failure to adequately maintain  
14 transmission lines and back-up generation capacity have resulted in economic  
15 damage to Nogales and its residents and endangered the community's welfare."  
16 [Decision No. 61793, p. 1 in **Exhibit M-A**, p. 1]

17 This resulted in several investigations by the Commission Staff, RUCO, Public Comment  
18 sessions with Commissioners, and evidentiary hearings Decision No. 61838 of 29 January 1999  
19 also was decided that does not concern to this immediate issue.

20 **2.6.2 Conditions After Decision No. 61793.**

21 **Q. What happened after Commission Decision No. 61793 ordered this annual Student**  
22 **Loan Program?**

23 **A.** In about 2000, the Citizens Board of Directors decided to divest all of its utility divisions  
24 except for communications to focus its business interest in one instead of multiple utility areas  
25 including changing the name of the company to Citizens Communications Company. It put its  
26 Arizona Electric Division (AED) on the market along with all others but communications.  
27

28 There was a long time before CapRock, a Texas cooperative, reached an agreement to  
29 purchase this division. However, after nearly two years, this deal failed because CapRock was  
30 unable to obtain financing for the purchase. AED was back up for sale.

31 In the interim, starting in about March/April of 2000, the purchase power agreement that  
32 AED had with the Arizona Public Service (APS), later Pinnacle West Corporation, was slightly  
33 modified. This minor modification caused serious increases in the cost of power as the California  
34

35 <sup>12</sup> This opened up ACC Docket No. E-01032B-08-0621.

1 Energy Crisis stated in May/June of 2000. By August 2000 Citizens had determined that this  
2 change resulted in nearly an additional \$55 million higher costs for electricity then the prior  
3 year. Citizens disputed these costs but paid these higher charges.

4 In September 2000, Citizens filed an Application to change its Purchase Power and Fuel  
5 Adjustment Clause (PPFAC) due to the high losses it was experiencing now over \$100 million.  
6 Citizens negotiated a new purchase power agreement (PPA) fixed price full service contract with  
7 Pinnacle West in May 2001, effective on 1 June 2001; however, the additional costs were now  
8 around \$130 million in disputed charges.

9  
10 In parallel to these challenges, Citizens and Tucson Electric Power Company (TEP) signed  
11 a Joint Development Agreement (JDA) to construct a double-circuit 345 kV transmission line  
12 from Sahuarita, Arizona to Santa Anna, Sonora, Mexico about September 2001. This transmission  
13 line was an additional result of the City of Nogales Complaint to the Commission. Thus a request  
14 to the Department of Energy for a Presidential Permit triggered the National Energy Policy Act  
15 and an Environmental Impact Statement (EIS). Also, the JDA led to an application for a  
16 Certification of Environmental Compatibility (CEC) from the Arizona Power Plant and  
17 Transmission Line Siting Committee in Case No. 111. The CEC process was delayed once by  
18 tolling due to the Committee's concerns about unanswered intervenors questions. The EIS was  
19 also delayed with completion in March 2005. The CEC-approved transmission line routes were  
20 not compatible with the EIS routes, thus this line appears it will never be constructed.

21  
22 All of these made the purchase of the Citizens AED high-risk and a lower cost proposition.

23 After the CEC had been granted, then modified and approved by the Commission in  
24 January of 2002, TEP started discussions with Citizens for acquisition of the AED. An Asset  
25 Purchase Agreement (APA) was completed on 29 October of 2002.

### 26 27 **2.6.3 Conditions after Acquisition of Citizens by UniSource Energy.**

28 **Q. What happened to the Educational Assistance part of the Settlement Agreement?**

29 **A.** UniSource Energy, Inc., purchased Citizens and specified in the purchase agreement that  
30 the City of Nogales Settlement Agreement and Commission Decisions No. 61793 and No. 62011  
31 were "assumed liabilities", specifically identified as being a future obligation or liability that was  
32 transferred from Citizens to UniSource Energy, Inc.,<sup>13</sup> on 11 August 2003, upon closing the sale.

33  
34  
35 <sup>13</sup> UniSource Energy, Inc. acquired all of Citizens electricity and natural gas assets in Arizona. During these  
acquisition hearings, the electric assets were called ElecCo, later was named as UNS Electric, Inc., and the natural

1 During the acquisition of Citizens by UniSource Energy, I was provided answers that all  
2 prior obligations from Citizens would remain in effect after the acquisition (other than a few  
3 environmental issues), including that the City of Nogales Settlement Agreement and Commission  
4 Decision No. 61793 were binding.

5 In 2005, Commission Order No. 62011 was reopened in a case that involved reliability  
6 of electricity in Santa Cruz County. After having closely looking through the special high school  
7 graduation issues of the *Nogales International*, I was unable to find any mention of these student  
8 loan awards. I brought up this issue in my Direct Testimony and cross-examinations. This  
9 resulted as an objection as to relevancy; the ALJ recommended that subject be in next rate case.

#### 11 **2.6.4 UNS Electric Rate Case and Commission Decision No. 70360.**

12 **Q. What happened during in Electric Rate Case that lead to Commission Decision No.**  
13 **70360?**

14 **A.** This is well documented in this case; however, information in the "Late Filed Exhibits" of  
15 24 December 2007, **Exhibit M-A**, (gives an accurate summary of the proceedings prior to and  
16 up to the Commission Decision No. 70360.  
17

#### 18 **2.6.5 Events Since Filing the Formal Complaint,**

19 **Q. What has happened since filing the Formal Complaint?**

20 **A.** The Electric Rate Case docket has the Procedural Orders that established Procedural  
21 Conferences for all the parties, mostly to provide updates and status reports on issues raised at  
22 a previous Conference. It was determined that compliance with Commission Decision No. 70360  
23 was essential before proceeding with the Complaint that also had concerns about compliance  
24 with additional Decisions. To ensure all parties were familiar with the Commission Order and  
25 Decision, in my Status Report at the 23 July 2009 Procedural Conference, a summary was  
26 provided to all parties which is **Exhibit MM-9**.  
27

28 In a Procedural Order dated 8 December 2009, the ALJ determined the Company was in  
29 compliance with UNS Electric Rate Case Decision No. 70360 and that these issues could be  
30 continued in the reactivated Complaint docket. That is where we are now.  
31  
32  
33

---

34 gas assets were called GasCo, later was named as UNS Gas, Inc (hereafter UNS Gas). Both UNS Electric and UNS  
35 Gas are subsidiaries of UniSource Energy Services, Inc., (hereafter UES). UES is a subsidiary of UniSource Energy.  
"UniSource" is NOT UNS Electric, in fact, UniSource is not in the title of this public service company.



1 **2.7 Conclusion.**

2 The conclusion from this evidence indicates that the following facts have been established:

- 3 1. That the Commission Order and Decision No. 61973 and the incorporated Revised
- 4 Settlement Agreement between the City of Nogales and Citizens remain in effect.
- 5 2. That UNS Electric assumed all the obligations of this Decision and Settlement
- 6 Agreement on 11 August 2003 to fund the annual interest-free student loans for four-
- 7 years at \$3,000 per year, or an annual funding obligation of \$12,000.
- 8 3. That UNS Electric did not fund any student loans or scholarships from 11 August
- 9 2003 through 2007, for four years, however, Citizens did (under)fund scholarships
- 10 from 1999 to 2003.
- 11 4. That UNS Electric tried to create a new College Assist Program that fell far short of
- 12 achieving the conditions in the Settlement Agreement.
- 13 5. That UNS Electric has not awarded any student loans until 2008 when it awarded a
- 14 \$1,000 scholarship and in 2009, four \$2,000 scholarships.
- 15 6. That student interest-free loans are required by the Settlement Agreement to be
- 16 awarded and not scholarships.
- 17 7. That jurisdiction of the Settlement Agreement is with the Commission.
- 18 8. That overall underfunding is in excess of \$108,000 as of 31 December 2009 and that
- 19 UNS Electric was underfunded from 2004 to the end of 2009 by at least \$63,000.
- 20 9. That UNS Electric did not comply with paragraph 13 of Commission Decision No.
- 21 61793 or Article 9 of this Settlement Agreement.
- 22
- 23
- 24

25 **2.8 Recommendation**

26 It is recommended that

- 27 1. UNS Electric establishes an Educational Support program in accordance with Article 9
- 28 of the Revised Settlement Agreement and Commission Decision No. 61793.
- 29 2. UNS Electric awards at least two student loans annually until it is not in arrears.
- 30 3. UNS Electric uses the offices of the Santa Cruz County School Superintendent as the
- 31 principal point of contact for issues related to implementation of Commission
- 32 Decision No. 61793 and the City of Nogales Attorney for any legal definitions
- 33 concerning implementation of the Educational Support program.
- 34
- 35

- 1 4. UNS Electric report annually, on 1 July, to the Commission Staff, the City of Nogales  
2 Attorney's office, and the Santa Cruz County School Superintendent the status of each  
3 student terms of  
4 • School being attended, graduation status for the student, how many years of the  
5 loan the student has taken, graduation date and major,  
6 • Post graduation activities, and  
7 • Location of work after final graduation and two years after graduation,  
8 • If the work location for two years is in Santa Cruz County or not in Santa Cruz  
9 County, and  
10 • When not working or living in Santa Cruz County, the repayment schedule should  
11 be simple at \$100 per month for 120 (or less) months that the loan was provided,  
12 amount due and amount received.  
13 • The total funds loaned as of 1 July and status of repayments received to date.  
14

15  
16 **Q. Does the complete your Testimony on this issue?**

17 **A.** Yes.  
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SECTION 3 - ISSUE 2

INCOMPLETE REPLACEMENT UTILITY POLE/CABLE PROJECTS

3.1 Summary of this Issue called "Incomplete Replacement Utility Pole/Cable Replacement Projects".

**Q. Can you summarize this Issue?**

**A.** Commission Decision and Order No. 62011<sup>14</sup> approved a Settlement Agreement between the Commission Staff and Citizens that ordered Citizens to comply with the requirements of this Agreement. The "Settlement Agreement between Commission Staff and Citizens Utilities Company" (Docket No. E-01032A-00-0401) (hereafter "Staff-Citizens Settlement Agreement") approved the Citizens' Plan of Action to address service quality issues in the Santa Cruz service area. The following evidence supports this.

(1) The "Settlement Agreement Between Commission Staff and Citizens Utilities Company" (9 August 1999, Docket E-01032A-99-0401) initial paragraphs states:

"Citizens Utilities Company ("Citizens") and the Arizona Corporation Commission Staff ("Staff") agree as follows concerning Citizens' Plan of Action to address service quality issues in its Santa Cruz Electric Divisions, Citizens' Analysis of Transmission Alternatives and Citizens' Schedule to construct a second transmission line to serve its Santa Cruz Electric Division Customers.

"1. Citizens' Plan of Action, as filed on April 15<sup>th</sup>, 1999, and Supplemented on May 7<sup>th</sup>, 1999, and July 13<sup>th</sup>, 1999, complies with **Decision Nos. 61383 and 61793...**" [**Exhibit MM-1**, p. 5]

(2) Decision No. 62011, in Findings of Fact 2, states:

"2. Decision 61383 (January 9, 1999) directed Citizens to file an analysis of alternatives and Plan of Action to rectify the service problems in the Santa Cruz Electric Division, for approval at Open Meeting, and order that a hearing be held regarding Citizens' request." [**Exhibit MM-1**, p. 5]

(3) Decision No. 62011, in Finding of Fact 15, states:

"15. The [Commission Staff-Citizens] Settlement Agreement **commits** Citizens to a Plan of Action that is in compliance with **Decisions No. 61383 and 61793** and incorporates Staff recommendations... The Settlement Agreement states that the Plan of Action includes Citizens' submittal of April 15, 1999, as supplemented on May 7, 1999 and July 13, 1999." [**Exhibit MM-1**, p. 5]

<sup>14</sup> Commission Opinion and Decision No. 62011 is found in **Exhibit MM-10**.

1 (4) The Citizens Plan of Action, "Supplement to Citizens Utilities Company's Santa Cruz  
2 Electric Division Transmission Alternatives and Plan of Action" under "Planned Improvements  
3 That are Not Dependent On Construction of Second Transmission Line" states:

4 "Citizens is currently replacing poles and cable. Attachment IV includes  
5 detailed schedules showing the areas where replacements will be made,  
6 the number of poles or amount of cable that will be replaced, and the  
7 capital expenditures to do so, for the years 1999-2003." [Exhibit MM-1, p.  
8 5, emphasis added]

9 (5) Citizens Plan of Action Supplement "Attachment IV Citizens Utility Company Pole and  
10 Cable Replacements Santa Cruz Electric District, 1999-2003" is in **Exhibit M-D**.

11 (6) From the "1999 System Improvement Santa Cruz District", an excerpt from the Citizens  
12 Plan of Action section on "Distribution Circuits Improvements," in **Exhibit M-E** it states there are  
13 many different faults over most of the County that these replacements will improve reliability:

14 **"Overhead Circuits.**

15 "The pole replacements are mainly concentrated in the Nogales area.  
16 These poles have reached the end of their life cycle. Some of these pole  
17 replacements involve the relocation of circuits, as in the case of Circuits 6241  
18 and 6246. Circuit 6241 feeds the west-side of Nogales (and feeds the  
19 hospital). Circuit 6241 shares a pole with Circuit 6246. By relocating a portion  
20 of 6241, Citizens can reduce the stress on the poles and eliminate potential  
21 outages due to structural failures. Activation of Circuit 6246 will allow Citizens  
22 to split the load of the west-side of Nogales, and increase the ability to back  
23 feed 6241 in the even of damage.

24 "A major portion of the pole replacements will be done along Highway 82  
25 and into the mountains in the Lochiel area. These poles are also at the end of  
26 their useful life cycle. Along with pole replacements, Citizens is utilizing a gas  
27 right of way to bring in a loop feed into the Lochiel area. This loop will allow  
28 Citizens to sectionalize and isolate damaged portions of line, thereby keeping  
29 the highest number of customers in service.

30 **"Underground Circuits**

31 "Underground cable replacements are concentrated in Rio Rico and  
32 Tubac. The Rio Rico Urban 3 area was installed in the early 1970's. This cable  
33 was directly buried and is ending its useful life cycle. A significant number of  
34 outages occur in this area. Smaller sections of cables need to be replaced in  
35 other subdivisions, but not as much as in the above two subdivisions.

36 "A significant portion of the cable replacements involves the underground  
37 feed to the top of Mount Hopkins. This cable was installed by a contractor in  
38 the 1970's, and was also direct buried. This cable has numerous faults. When  
39 a fault occurs, locating the faulted section requires an entire crew. It should be  
40 noted that because this part of the county is so far from the rest of the service  
41 territory, if there is an outage that requires the crew from Nogales, it takes a  
42 minimum of an hour for them to get there.

1 "The major portion of the replacements in Nogales are in trailer parks.  
2 These parks also have cable that was directly buried and have numerous  
3 faults. The older sections of Meadow Hills area has the same type of cable  
4 installation. Some faults have occurred in this area, and some cable has been  
5 replaced as well." [Exhibit M-E, pages not numbered, emphasis added,]

6 (7) Commission Decision 66615 (9 December 2003), in Docket E-01032A-99-0401, in  
7 Finding of Fact No. 11, states that the Commission expects compliance to the Plan of Action:

8 "11. The Settlement Agreement approved by Decision No. 62011 committed  
9 Citizens to [a] Plan of Action as filed by Citizens on April 15, 1999, and  
10 supplemented on May 7 and July, 13, 1999 and incorporating Staff  
11 recommendations contained in pre-filed testimony of those proceedings. The  
12 Plan of Action included construction, operation and maintenance of new  
13 distribution infrastructure, improved restoration of service following  
14 transmission outages by use of newly developed restorative switching  
15 protocol, maintaining a distribution system operation center with remote  
supervisory control and data acquisition ("SCADA") capability and placing the  
Valencia generating units in standby mode during storm season." [Exhibit  
MM-1, p. 6, emphasis added]

16 **Q. What is this second Settlement Agreement?**

17 **A.** The ACC Staff-Citizens Settlement Agreement implemented a series of specific and  
18 detailed reliability improvements. There are specific projects for pole and cable replacement,  
19 with schedules with allocated dollars and number of poles/feet of cable to be replaced. Some  
20 was accomplished; however, much was not. Some projects over-ran their budget or required  
21 more poles or cable. These provided quantifiable compliance measures; however, completion of  
22 each project of the 32 projects remains doubtful.

23  
24 **3.2 Status of this Issue During the Electric Rate Case.**

25 **Q. Did the Company Agree that some of the 32 projects had not been completed?**

26 **A.** No. During the UNS Electric Reply Post-Hearing Brief, they stated a concern that was  
27 responded in **Exhibit MM-1** on page 9, that my testimonial evidence was that my subdivision  
28 has not had its underground cables replaced, that I personally had a cable failure in late August  
29 10005, and that the Harvard-Smithsonian Mount Hopkins Observatory did not have all its  
30 defective underground feeder cables replaced, as stated in **Exhibit M-E. (Exhibit MM-1, p. 9)**

31 **Q. Did you have credible evidence in that case?**

32 **A.** Yes. Credible evidence presented in the Magruder Surrebuttal Testimony was based the  
33 comprehensive list of work accomplished by the Company since August 2003, and, as I testified,  
34  
35

1 none matched any of the 32 replacement pole and cable projects.<sup>15</sup> The question to the Company  
2 to verify of accomplishment of the 32 projects is unanswered.<sup>16</sup> Negative evidence is difficult to  
3 present, especially from an Intervenor. The Company is the best source for this type of evidence.

4 **Q. What Agreements specifically required these Pole and Cable Projects?**

5 **A.** These projects are in the Plan of Action, see **Exhibit M-D** attached.

6 (1) ACC Order No. 61793 states

7  
8 "IT IS FURTHER ORDERED that Citizens shall provide a planned service date  
9 and cost benefit analysis for the cost of system components of the second  
10 transmission line included in its Plan of Action, as directed by Decision No.  
11 68183..." [**Exhibit M-1**, p. 9, emphasis added].

12 (2) ACC Decision No. 61793, Exhibit A, Nogales Settlement Agreement, states

13 "The Commission has asked Citizens to file its plan to address Santa Cruz  
14 County electric service issues. Citizens will file the final Service Upgrade Plan  
15 for approval in Citizens Separation Docket." [**Exhibit MM-1**, p. 9, emphasis  
16 added].

17 (3) ACC Decision No. 61793, Exhibit A, Nogales Settlement Agreement, states

18 "Decision No. 61793 required Citizens to develop a Plan for ACC Approval,<sup>17</sup>  
19 that was in the Commission Staff Settlement Agreement (9 August 1999) and  
20 implemented by ACC Decision No. 62011.<sup>18</sup> The Commission Staff Settlement  
21 Agreement contains Attachment IV of the Plan of Action with the pole and  
22 cable replacement plans; see the new Magruder **Exhibit M-D** and **Exhibit M-**  
23 **E**. ACC Order No. 62011 implemented the Citizens' Plan of Action." [**Exhibit**  
24 **MM-1**, p. 10 and **Exhibit MM-10**]

25 **3.2.1 Rate Case Decision Concerning Poles and Cable Replacement Projects.**

26 **Q. What did the Commission Decision No. 70360 order on this issue?**

27 **A.** With respect to the replacement of poles and cables, Decision No. 70360 provides:

28 "UNS Electric, Inc. shall file a **detailed response** to Mr. Magruder's allegations  
29 regarding the poles and underground cables under the 1999 Nogales/Citizens  
30 Settlement Agreement, within 60 days of the effective date of this Decision.  
31 Replies to the Company's response shall be filed by Mr. Magruder, Staff and  
32 RUCO within 30 days." [Decision No. 70360, emphasis added]

33 <sup>15</sup> Magruder Supplemental Testimony for replaced utility poles, p. 31-33 underground cable at p. 33-34.  
34 **Exhibit M-D** provides the documentary evidence that was reformatted in Magruder's Testimonies.

35 <sup>16</sup> *Ibid.* p. 24-27.

<sup>17</sup> See ACC Decision No. 62011, Finding of Fact No. 2, in **Exhibit MM-10**.

<sup>18</sup> UNS Electric Reply Post-Hearing Brief, p. 35-36.

1 Unfortunately, this Order referred to the wrong Settlement Agreement. The correct one is  
2 the Staff-Citizens Settlement Agreement and Order No. 62011 (**Exhibit MM-10**) that approved  
3 the Plan of Action with an excerpt on this issue contained in attached **Exhibit MM-1**.  
4

5 **3.3 Status of this Issue since the Rate Case.**

6 **Q. Did UNS Electric submit a detailed response concerning poles and cables?**

7 **A.** UNS Electric filed a response on 28 July 2008 in **Exhibit MM-11**. Unfortunately, there  
8 were only two brief spread sheets in its two exhibits. These are NOT detailed and erroneous.

9 **Q. Did you file a detailed report on these 32 Pole and Cable Replacement Projects?**

10 **A.** Yes. My filing of 15 September 2008 contained detailed information about each of the 32  
11 Cable and Pole Replacement Projects and is **Exhibit MM-12** herein. No details in response have  
12 provided by UNS Electric about the 32 projects. As in **Exhibit MM-12** and my testimony during  
13 the case, the Company has provided no "details" on any "project".  
14

15 **3.4 The Present Status of this Issue?**

16 **Q. What is the present status of this Issue?**

17 **A.** After not finding any documentary details about these projects, including trying to verify  
18 completion by inspecting utility poles in two projects, it appears that I cannot verify completion  
19 of the pole replacement projects. The results of this inspection are summarized in my Status  
20 Report on 23 July 3009, in **Exhibit MM-9**.  
21

22 **3.4.1 UNS Electric has complied with Commission Order No. 70360 on this Issue.**

23 **Q. Has UNS Electric complied with Commission Order No. 70360?**

24 **A.** The ALJ determined in a Procedural Order of 8 December 2009, that UNS Electric has  
25 complied with this order based on Company's filing of 28 July 2008.  
26

27 **3.5 Conclusion.**

28 Based on the inability of UNS Electric to know when and where a utility pole has been  
29 installed or cable replaced, due to lack of records, there is no way to verify completion of these  
30 projects. Therefore, I have withdrawn my complaint on this issue.  
31

32 I find it absolutely appalling and totally unsatisfactory that this company does not have  
33 records that show which pole is located where and when it was installed. The same goes for  
34 underground cables.  
35

1   **3.6   Recommendations.**

2           It is recommended that UNS Electric establish a "pole log" and a "cable log" that records,  
3 as a minimum, each pole/cable segment by serial number that is affixed to the pole/cable,  
4 exactly where it is installed, the circuit on which it is installed, when it is installed and the  
5 identification marking for the pole/cable. This is an absolute minimum.  
6

7   **Q.     Does the complete your Testimony on this issue?**

8   **A.     Yes.**  
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## Section 4 – ISSUE 3

### A Program to Provide Notification of an Electrical Outage to ALL Customers on Life-Support Equipment

#### 4.1 Summary of this Issue called “A Program to Provide Notification of an Electrical Outage to ALL Customers on Life-Support Equipment”

This safety issue is simple, but maybe critical for customers on life-support equipment. The Company has a mission to ensure electricity reliability and safety for its customers, which applies to this concern. Taking action for such safety concerns before the loss of life is responsible corporate behavior.

During the Santa Cruz County reliability hearings in 2005, I was asked a question from then Commission Chairman Gleason:

***“What do you do for those on life-support equipment during an outage?”***

The answer to that question is what this issue is all about.

The Company now provides a very minimal approach towards resolution. This party expects the solution to ensure that any and all who are life-support equipment are not harmed during an electrical outage. Some may be alone or asleep when such an outage occurs. Others may have a backup battery system with a short charge and will need assistance very soon after an outage while others may not be in such a critical situation.

However, the bottom line for this issue is that ALL customers on life-support equipment should be given an opportunity to at least apply for being notified by a “first responder” during an electrical outage. The Company’s program only permits about 3-6% of the customer to be eligible just to “apply” for notification. This missed the point; ALL should be eligible to apply.

#### 4.2 Status of this Issue during the Electric Rate Case.

**Q. Were you satisfied with the Company’s response on this issue during the Rate Case?**

**A.** No, not at all. My Surrebuttal states:

“... there remains unanswered questions:<sup>19</sup>

1. What are UNSE’s concerns for those with electrical life-support equipment that are NOT CARES-M customers?
2. Does UNSE have any moral, ethical, and safety responses for these people whose lives are dependent on reliable electricity?” [Magruder Surrebuttal Testimony, p. 51]

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<sup>19</sup> Magruder Supplemental Testimony, page 51.

1  
2 The Commission Order with respect to the notification of customers on life support, Decision  
3 No. 70360 provides:

4 "UNS Electric, Inc. shall file to file (sic) within 90 days of the effective date of  
5 this Decision, a statement regarding suggested changes to its procedures that  
6 may address the concerns raised by Mr. Magruder customer on life support  
7 equipment." [Decision No. 70360]

8 It is noted that the most important suggestion by this Party was that the notification  
9 program be for ALL UNS Electric customers on life-support and not just a very limited subset  
10 who are CARES-M rate category.

11 **4.3 Status of this issue Since the Electric Rate Case.**

12 **Q. What has happened since completion of the Rate Case?**

13 **A.** On 25 August 2008 filed a statement containing its procedures for such notifications as  
14 found in **Exhibit MM-13**. This response is limited to only the UNS Electric customers that are  
15 first, on the low-income CARES<sup>20</sup> rate category and, and then in the Medical Life Support  
16 Program, called CARES-M. CARES-M is only available to customers who submit a UNS Electric  
17 Residential Discount Program Application. This exhibit also states:

18 **"UNS Electric currently does not notify life support customers of**  
19 **outages.** Instead, UNS Electric uses its best efforts to reconnect life support  
20 customers first in the event of an outage." [Exhibit MM-13, p. 2. emphasis  
21 underlined]  
22

23 Exhibit MM-13 has been discussing this program with the Santa Cruz County  
24 Sheriff's Department, but then states:

25 "However, as of this date, the Sheriff's Department has not assumed the  
26 obligations to contact life support customers." [Exhibit MM-13, p. 2.  
27 Emphasis added]

28 I have indicated to the Company several times that the Sheriff wants to sign a  
29 Memorandum of Understanding between his Department and the Company so that the process  
30 is written, agreed, and any potential liabilities have been removed.  
31  
32  
33

34  
35 <sup>20</sup> *Ibid.* over 13,000 families who are lower income are not in the CARES program, and it is estimated that only 6%  
of all the customers in Santa Cruz County are using the CARES rate category.

1 Further, the ongoing process is not working.<sup>21</sup>

2 My response found in **Exhibit MM-14**, states:

3 "The UNSE filing shows a misunderstanding of three critical elements in this  
4 process:

- 5 a. This notification process is for ALL customers, not just a subset of the  
6 lower income customers signed up for the CARES-M program.  
7 b. The existing CARES-M (or a new life support) application must be modified  
8 to include ALL customers and with additional information as to any backup  
9 power capabilities, usually batteries, normally available to the person on life  
10 support.  
11 c. Law enforcement has been authorized access to utility customer lists  
12 without customer permission according to the Arizona Administrative Code  
13 14-14-2-203A(3)<sup>22</sup> as individual customer approval is not necessary;  
however, a new Life Support Application should have an "opt out" provision.  
Include on the application this permission. [**Exhibit MM-13**, p. 6, emphasis  
in original, including footnote]

14 **4.4 Conclusions.**

15 The conclusions in **Exhibit MM-13** remain which states:

16 "Without resolving these three issues, a process now being proposed by the  
17 Company in its 25 August 2008 letter is inadequate. **Most life-support**  
18 **dependent customers** are not CARES-M customers and law enforcement is  
19 authorized to have access customer lists. Only a small percentage of  
20 customers would be included in this program.<sup>23</sup> [**Exhibit MM-13**, p. 6,  
emphasis in original]

21 **4.5 Recommendation.**

22 The recommendations in **Exhibit MM-13** remain which states:

- 23 1. That UNSE design and provide annually a new life-support customer  
24 application for all customers including an "opt out" provision and information  
25 release statement to law enforcement, at least once a year, in customer  
26 billing statements and on the company website.  
27 2. That UNSE enter into a mutual support agreement with the County Sheriff to  
28 provide notifications of life-support customers.

29 <sup>21</sup> During one of the Procedural Conferences, the Company's representative indicated that only 6 on life-support  
30 equipment in Santa Cruz County requested to be notified. This is a very low number based on my contacts who  
would want to be on this notification list.

31 <sup>22</sup> A.A.C R14-2-203A (2) states "**Customer-specific information shall not be released without specific prior**  
32 **written customer authorization unless the information is requested by a law enforcement officer or**  
33 **other public agency... or is necessary to provide safe and reliable service to the customer.**" [Emphasis  
added]. This process meets both these criteria for the Sheriff to have limited customer information for  
notification of life-support customers during an outage. [This is original footnote 2 in **Exhibit MM-13**.]

34 <sup>23</sup> In a 1999 City of Nogales-Citizens Settlement Agreement, customer lists were provided to the City without  
35 customer permission. I estimate less than 3% of every person serviced is on life-support equipment. [This is  
original footnote 3 in **Exhibit MM-13**.]

1 3. That any resultant County-UNSE mutual support agreement(s) be  
2 implemented.

3 That UNSE notify all parties in this case as 1, 2 and 3 are accomplished." [Exhibit  
4 MM-13, p. 6, emphasis in original.]

5 **Q. Are there any changes to your prior testimonies?**

6 **A.** No. This also completes this testimony.  
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1 ATTACHMENT A

2  
3 EXHIBITS

4 Exhibit MM-1 Magruder Late Filed Exhibits of 24 December 2007

5 Exhibit M-A ACC Decision No. 61793 of 29 June 1999

6 Exhibit M-B Correspondence with Nogales Educational Foundation

7 Exhibit M-C UNS Electric Data Request Responses

8 Exhibit M-D Citizens Plan of Action (excerpt)

9 Exhibit M-E Citizens Plan of Action (status in 1999)

10 Exhibit MM-2 Letter from Deputy City of Nogales Attorney to Citizens of 28 June 2008

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14 Compliance

15 Exhibit MM-6 UNS Electric filing "Compliance Filing Regarding Citizens Utilities  
16 Educational Assistance Program of 25 August 2008

17 Exhibit MM-7 UNS Electric New College Scholarship Program

18 Exhibit MM-8 In Remembrance of Our Friend Jose B. Cañez, *Nogales International*, of 5  
19 January 1999

20 Exhibit MM-9 Marshall Magruder Status Report, 23 July 2009

21 Exhibit MM-10 Commission Opinion and Decision No. 62011, of 2 November 1999

22 Exhibit MM-11 UNS Electric Response to Mr. Magruder's Concerns, of 28 July 2008

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24 of 13 Sept. 2008

25 Exhibit MM-13 UNS Electric Compliance Filing Regarding Procedures for Outage  
26 Notification for Life-Support Customers, of 25 August 2008

27 Exhibit MM-14 Marshall Magruder Rebuttal of UNSE Compliance Filing Regarding  
28 Procedures for Outage Notification for Life Support Customers, of 24 September 2008

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1 **ATTACHMENT B**

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3 **ADDITIONAL INFORMATION AND RESUME FOR MARSHALL MAGRUDER**

4  
5 I am a Senior Scientist and Information Systems Architect part-time employee for  
6 Integrated Systems Improvement Services (ISIS), Inc. in Sierra Vista, Arizona. I have worked  
7 with information warfare, systems architectures, electronic and communications intelligence  
8 systems, test plans, information assurance, future cryptologic systems management, and  
9 information technology services. As a Systems Engineer and Training Systems on-call consultant  
10 for Imagine CBT, Inc., at Raytheon Naval and Maritime Systems in San Diego I do systems  
11 engineering work with US and Royal Navy involving aircraft carriers and amphibious warfare  
12 ship's command, control, communications, computers, intelligence, surveillance and  
13 reconnaissance (C4ISR) systems, and training systems.  
14

15 Annually, I am seasonally employed as a Senior Tax Advisor Level 3 for H&R Block, Inc, in  
16 Tucson, Arizona. I retired from Raytheon- Hughes Aircraft Company as a Senior Systems  
17 Engineer after nearly 18 years and as a Naval Officer for 25 years.

18 As an instructor, I taught the University of Phoenix MBA courses "Operations  
19 Management for Total Quality" and "Managing R&D and Innovation Processes" in Nogales,  
20 Arizona, where all the students were from Mexican maquilladores, and also in Tucson, Arizona.

21 I am the Vice President of the Martin B-26 Marauder Historical Society and serve as Fund  
22 Raising Chairman for an ongoing five-million dollar "Lasting Legacy" fund drive to fully endow  
23 the MHS International Archives and to restore a B-26 Marauder aircraft at the Pima Air & Space  
24 Museum/Arizona Aerospace Foundation in Tucson.  
25

26 I hold two Masters of Science degrees, one from the University of Southern California in  
27 Systems Management (MSSM) with specialties in Managing R&D and Human Factors and  
28 another from US Naval Postgraduate School a MS in Physical Oceanography with emphasis on  
29 underwater acoustics. My Bachelor of Science degree is from the US Naval Academy with extra  
30 courses in Operations Research/Analysis and Soviet Naval History and Tactics.  
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## ATTACHMENT B

### RESUME OF MARSHALL MAGRUDER

#### EDUCATION

MS in Systems Management, University of Southern California (1981); MS in Physical Oceanography, Naval Postgraduate School (1970); BS, US Naval Academy (1962)

#### EXPERIENCE

Over 25 years as Systems Engineer associated contractor, consultant, Raytheon-Hughes in systems engineering, training and naval systems, C4I simulation and modeling; over 40 years experience with 25 years US Navy

- **Large-system development** at all levels  
**From** pursuit, analysis, winning strategy, Request for Proposal evaluation, proposal management, system requirements analysis, architectures, specifications, design synthesis, trade-off studies, requirements allocation tracking,  
**To** system, level test planning, deployment, implementation, testing through sign-off, operations, maintenance.  
**For** technical systems, all complexities.
- **Developed** Antisubmarine Warfare, Electronic Warfare, Command, Control, Communications, Computers, Intelligence, Surveillance, and Reconnaissance operational concepts, procedures, and tactical employment.
- **Used, operated, and planned** Navy, Army, Air Force, Coast Guard, Joint systems, world-wide.
- **Coordinated multi-platform employment** from sensor to tactical platform to Battle Force to Theater levels.
- **Qualified Systems Engineer-Manager** for trainers, artillery, Command & Control, countermeasures, communications, any service, all platforms.
- **Specialties:** environmental analysis, documentation, sensor/weapon performance predictions, and C4ISR, Electromagnetic and Emission Control (EMCON) decision criteria.
- **Battle Force/Group Tactical Action Officer** on 8 aircraft carriers, TAO Instructor, 20 months combat.

#### RECENT POSITIONS

- AARP Tax Consulting for the Elderly (2002-present)** (pro bono) tax preparer, IRS qualified.
- H&R Block, Senior Tax Advisor Level III (1998 to present)**, tax preparer (every January to April 15).
- Santa Cruz County/City of Nogales Joint Energy Commission, Commissioner (2001-2008), Vice Chairman (2001)**, intervened in Line Siting Cases No. 111 and 144; Rate Cases (two Natural Gas, one Electric, one Water), Renewable Energy Standard and Demand Side Management participation, and other ACC issues.
- C4I Architect and C4I Support Plan Lead (1998-2002)** for Carrier for the 21st Century (CVX) Task Order.
- Completed CVX C4I Support Plan, v1.0, Joint Operational Architecture development for Joint and Naval staff space allocations for CVX (1999) and Joint Command and Control ship.
  - Drafted CVN 77 Electronics System Integrator Statement of Work for WBS Group 400 tasks and IPTs (1999), *Integrated Management Plan*;
- Royal Navy Future Aircraft Carrier (2002)**, C4ISR systems architectures and WBS proposals.

#### OTHER SIGNIFICANT EMPLOYMENT

- Program Manager for the Border Patrol Strategic Border Initiative and National Training Center.**
- Training Standards for Border Patrol personnel performing maintenance on Virtual Fence equipment, establish a National Border Patrol Training Center with interactive and real-time Performance Measurement Subsystem, for maintenance and operational personnel. (2008)
- Lead Systems Engineer, Operations Analyst and Site Survey Leader** for Saudi Arabian Minister of Defense National Operational Command Centers and C4I System. (1995-1997)
- Completed *System Specification, System Description, Site Survey, Interface Requirements Documents*
- Proposal Technical Volume Manager** for the following **winning proposals**:
- **Vessel Traffic Service 2000 system**, US Coast Guard command center for surface surveillance using radar,



- visual, communications links in 14 US ports. (evaluated A++, won Phase I, Phase II cancelled) (1995-1997)
- **Anti-submarine Warfare Team Trainer** (Device 20A66), an integrated, multi-ship, submarine and aircraft training system for Naval Task Groups. (\$56M contract, best technical, lowest cost)
  - **Electronic Warfare Coordination Module**, an Intelligence/EW spectrum planning and management system for Task Force Command Centers. (won Phase I, best technical)

**Assistant Program Manager for the Training Effectiveness Subsystem, Device 20A66**

- Performance Measurement Subsystem, observed real-time performance of operators, teams, multi-ship and aircraft units during exercises and compared to the standard (1985-1998)

**Senior Systems Engineer** responsible for writing **specifications** including following **proposals**:

- **Networthiness Certification**, prepared proposal for the Army Network Command (NETCOM), for this several million-dollar program involving over 3,200 Army computer programs at all Army installations, worldwide. prepared Quality Control and Risk Management Plan. (2005-2007)
- **Cryptologic Support and Logistic Analysis**, prepared proposal for Army Communications-Electronics Command, Ft. Huachuca, Arizona.(2004-2006)
- **US Army Virtual Proving Ground (VPG)** - Performed *C4ISR Architecture Framework* development, implementation and documentation using the DoD *Architecture Framework*, for Operational, Technical and Systems architecture products. (2001-2003).
- **US Navy Tactical Combat Training System**, *Exercise Execution Software Requirements Specification* for simulation and computer models to run real-time, driving sensors, weapons and links on 35 ships, 100 aircraft and submarines (won Phase I contract, wrote SRS in Phase 2 proposal) (1999-2000)
- **Warfighter's Simulation 2000** (WARSIM 2000) *System Specification*, a US Army Force XXI Century battalion to theater levels, training system with actual C4I systems. (won Phase I) (1999)
- **Fire Support Combined Arms Team Trainer** *System Specification*, a US Army field artillery multiple cannon and battery training system. (awarded \$118M contract, still under contract) (1998-1999)

**MBA Instructor, University of Phoenix 2002-2005**, for "Operations Management for Total Quality" and "Managing R&D and Innovation Processes" courses. (presently inactive status)

**Proposal Manager, Law Enforcement Driver Trainer System for California (1985-1986)**. Led pre-proposal and proposal team to develop a design for high-technology driver trainer systems for the Peace Officers and Safety Training (POST) Commission.

## **SIGNIFICANT AWARDS**

**Friends of the Santa Cruz River "Volunteer of the Year" (2010)**, for accomplishments in protecting the Santa Cruz River during Line Siting Cases and participation in the Santa Cruz Active Management Area meetings.

**Arizona Golden Rule Citizen Award (2004)**, by Arizona Secretary of State Janice K. Brewer for exemplifying the spirit of the Golden Rule daily: "treat others the way you would like to be treated", nomination made by Santa Cruz County Supervisor Ron Morris, of August 2004 for accomplishments on the Santa Cruz County/City of Nogales Joint Energy Commission.

**National Security Industrial Association (1993)**, Anti-Submarine Warfare Committee, **Meritorious Award** from the NSIA President, Admiral Hogg USN, for leading ASW training industry and government studies.

**Merit Awards (1983-2000)**, Raytheon and Hughes, four times, for achievement and excellence in performance.

**Geophysics Professional Qualification (1980)**, U.S. Navy for work in environmental and acoustic warfare.

**Military Awards (1962-1982)** include Meritorious Service Medal, Naval Commendation Medal with Combat "V" and Gold Star, Navy Unit Commendation, Navy Meritorious Unit Commendation, National Defense Medal, Armed Forces Expeditionary Medal (Dominican Republic), Vietnam Service Medal with three Bronze Stars, Vietnam Campaign Medal with "1960-", Overseas Service Ribbon (Italy).

**Florida Boy's State**, sponsored by the American Legion. (1957)

**Kiwanis Award, "Most Service Hours"**, paid trip to National Key Club Convention, Washington, DC. (1957)

**High School "All-American Swimmer"**, Coral Gables High School, Coral Gables, Florida (1957)

**Eagle Scout with Bronze and Silver Palms** (1954)

1 ATTACHMENT A

2  
3 EXHIBITS

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5 Exhibit M-A ACC Decision No. 61793 of 29 June 1999

6 Exhibit M-B Correspondence with Nogales Educational Foundation

7 Exhibit M-C UNS Electric Data Request Responses

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17 Exhibit MM-7 UNS Electric New College Scholarship Program

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26 Notification for Life-Support Customers, of 25 August 2008

27 Exhibit MM-14 Marshall Magruder Rebuttal of UNSE Compliance Filing Regarding  
28 Procedures for Outage Notification for Life Support Customers, of 24 September 2008

ORIGINAL

BEFORE THE ARIZONA CORPORATION C

COMMISSIONERS

Mike Gleason, Chairman  
William A. Mundell  
Jeff Hatch-Miller  
Kristin K. Mayes  
Gary Pierce

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Exhibit

MM-1

Page 1 of 12 pages

IN THE MATTER OF THE  
APPLICATION OF UNS ELECTRIC,  
INC. FOR APPROVAL OF THE  
ESTABLISHMENT OF JUST AND  
REASONABLE RATES AND  
CHARGES DESIGNED TO REALIZE  
A REASONABLE RATE OF RETURN  
ON THE FAIR VALUE OF THE  
PROPERTIES OF UNS ELECTRIC,  
INC.

Docket No. E-04204A-06-0783

Notice and Filing of a

Late-Filed Exhibits

by

Marshall Magruder

24 December 2007

In light of new information in the UNS Electric Reply Post-Hearing Brief of 19 November 2007, these late filed exhibits are submitted with the missing "evidence".

I certify this filing notice has been mailed to all known and interested parties, as shown on the Service List.

Respectfully submitted on this 24<sup>th</sup> day of December 2007

MARSHALL MAGRUDER

By Marshall Magruder

Marshall Magruder  
PO Box 1267  
Tubac, Arizona 85646-1267  
(520) 398-8587  
[marshall@magruder.org](mailto:marshall@magruder.org)

Arizona Corporation Commission

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DEC 27 2007

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ARIZONA CORP. COMM  
400 W CONGRESS STE 218 TUCSON AZ 85701

## Service List

Original and 15 copies of the foregoing are filed this date:

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**Arizona Corporation Commission**

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Phoenix, Arizona 85007-2927

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**Maureen Scott**, Senior Staff Counsel (1 copy)

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Arizona Public Service Company

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Interested Parties (1 copy each) are filed  
this date by mail:

Santa Cruz County Supervisors:

**Manny Ruiz**, Chairman

**Bob Damon**, Supervisor

**John Maynard**, Supervisor

**Louis Parra**, Assistant Santa Cruz County  
Attorney

Santa Cruz County Complex

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City of Nogales

**Jan Smith-Florez**, City Attorney

**Michael Massey**, Assistant City Attorney

Nogales City Hall

777 North Grand Avenue

Nogales, Arizona 85621-22621

## Part I – Summary and Background

### 1.1 Summary.

This filing summarizes information that resulted from the new information that came to light in the Reply Post-Hearing Brief by UNS Electric, Inc. (UNSE) of 19 November 2007. This concerns (1) Implementation of Arizona Corporation Commission (ACC) Decision No. 61793, et al, including a scholarship loan program and Citizens Advisory Council in Part II, and (2) Implementation of ACC Decision No. 62011 and completing of 32 utility pole and underground cable Replacement Plans in Part III.

The UNSE Reply Brief stated both concerns lacked evidence. Both were discussed in depth in Magruder pre-filed Testimonies, various cross-examinations, Magruder oral testimony, and Magruder Briefs, without written responses from UNSE until 19 November 2007.<sup>1</sup> Herein is additional collaborative evidence from the record and previously referenced-ACC docketed material. The only new evidence is a response from the Nogales Education Foundation.

These "late filed" exhibits are submitted for the record and for possible consideration by the Administrative Law Judge and potential reference in a later Exception, if necessary. Attempts to obtain this evidence during discovery were denied by UNS Electric.<sup>2</sup>

### 1.2 Background and new evidence.

A series of Citizens Utilities' electrical outages in the Santa Cruz service area resulted in the City of Nogales filing a formal complaint to the ACC and opened Docket No. E-01032B-98-0621, "In the Nature of a Complaint by the City of Nogales against Citizens Utilities Company, Santa Cruz Electric Division – Complaint" on 10 October 1998. This resulted in an investigation by the Commission, public comments, evidentiary hearings and Decision No. 61383 of 29 January 1999 that directed Citizens to file an analysis of alternatives and a "plan of action". On 10 February 1999, Citizens filed a "summary of plans and efforts to improve electrical service reliability in Santa Cruz County" in Docket No. E-01032B-98-0621, with a Plan

<sup>1</sup> For references to ACC-docketed evidence concerning the Nogales Settlement Agreement, see Magruder Supplemental Testimony (**Ex. M-23**), 22(27)-26(3); Magruder Surrebutal (**Ex. M-24**), 36(1)-38(9), Magruder Opening Brief, 19(1)-20(9), and Reply Brief, 10-11 and concerning the Commission Settlement Agreement, see **Ex. M-23**, 26(4)-27(4) and 30(1)-35(12), **Ex. M-24**, 38(10)-39(27); Magruder Opening Brief 19(1)-20(9); and Magruder Reply Brief, 11-12.

<sup>2</sup> Information pertaining to scholarship loans (MM DRs 2.6 and 3.10), Citizens Advisory Council (MM DRs 2.6 and 3.10), and Pole and Cable Replacements (MM DRs 2.8 and 3.12). The response was "UNS Electric objects to this data request, as it is unduly burdensome and outside the scope of this rate case." See Magruder Direct Testimony (**Ex. M-22**, 11-14). Copies of these DRs are in attached **Exhibit M-B**.

Action on 15 April 1999 with Supplemental Plans on 7 May 1999 and 13 July 1999. The 7 ay 1999 Supplemental filing deals with the replacement pole and cable issue.

3 **a. Settlement Agreement between the City of Nogales and Citizens.**

4 The Mayor and Aldermen of the City of Nogales approved a Settlement Agreement that  
5 is extensively referenced throughout Magruder's filings in this rate case. This City of Nogales  
6 Settlement Agreement, is Exhibit A to Decision No. 61793 (Docket E-01032B-98-0621) as  
7 Exhibit A is **Exhibit M-A**. The following are excerpts:

8 (1). Exhibit **M-A**, Article 9, page 7 states:

9 **"9. Educational Support.**

10 A skilled, knowledgeable work force will be a key to Santa Cruz County's success in the  
11 21<sup>st</sup> century. Following the Parties execution of this Revised Settlement Agreement, the  
12 City and Citizens will work together to develop an educational assistance program to  
13 assist worthy Santa Cruz County high-school seniors to attend the Arizona college of  
14 their choice. Each year, the program will select one County senior for a four-year,  
15 interest free loan to assist with tuition, books, and miscellaneous college expenses. If,  
16 following graduation, the student returns to Santa Cruz County to live and work, the loan  
17 will be forgiven. Citizens will contribute \$3000 per year, per student, toward this  
18 program. Other contributions will be solicited from other benefactors to expand this  
19 program even further, such as to cover some portion of room and board, graduate  
20 school, or vocational programs." (in Exhibit A to ACC Decision 61793 or 29 June 1999)<sup>3</sup>  
21 [Emphasis added]<sup>4</sup>

22 (2). **Exhibit M-A**, Article 3 (Citizens Advisory Council), page 4, has been quoted  
23 verbatim in Magruder Testimony.<sup>5</sup>

24 (3). **Exhibit M-A**, Article 10 (Miscellaneous), page 7, states

25 "...Citizens' activities under this Revised Settlement Agreement remain subject to the  
26 continuing jurisdiction of the Commission, by virtue of Citizens' status as a public  
27 service corporation under Arizona law."

28 And on page 8, states

29 "...This Revised Settlement Agreement binds the successors and assigns of the  
30 Parties. The provisions of this Revised Settlement Agreement are not severable."

31 **Exhibit M-B** contains an email from the Nogales Educational Foundation and  
32 includes a summary of Citizens Energy Scholarships awarded to date.

33 **Exhibit M-C** is copies of UNS Electric's responses to Magruder MM Data Request  
34 2.6 and MM DR 3.10 concerning the Nogales Settlement Agreement, and MM DR 2.8 and  
35 MM DR 3.12 concerning the Commission Staff Settlement Agreement.

3 <sup>3</sup> See paragraph 3.4 of the Magruder Reply Brief.

4 <sup>4</sup> My later filings stated an incorrect amount of \$3,500 which should be corrected to read \$3,000.

5 <sup>5</sup> Magruder Supplemental Testimony (Ex. M-23), footnote 28 at 24(33)-25(32).

b. Settlement Agreement between the ACC Staff and Citizens.

In the ACC Decision and Order No. 62011, the Settlement Agreement between the ACC Staff and Citizens was approved by the Commission, which ordered Citizens Utilities to comply with the requirements of the Settlement Agreement. The "Settlement Agreement between Commission Staff and Citizens Utilities Company" (ACC Docket No. E-01032A-00-0401) approved the Citizens' Plan of Action to address service quality issues in the Santa Cruz service area. The following evidence supports this. [Emphasis added to Plan of Action]

(1) The "Settlement Agreement Between Commission Staff and Citizens Utilities Company" (9 August 1999, ACC Docket E-01032A-99-0401) initial paragraphs state:

"Citizens Utilities Company ("Citizens") and the Arizona Corporation Commission Staff ("Staff") agree as follows concerning Citizens' Plan of Action to address service quality issues in its Santa Cruz Electric Divisions, Citizens' Analysis of Transmission Alternatives and Citizens' Schedule to construct a second transmission line to serve its Santa Cruz Electric Division Customers.

1. Citizens' Plan of Action, as filed on April 15<sup>th</sup>, 1999, and Supplemented on May 7<sup>th</sup>, 1999, and July 13<sup>th</sup>, 1999, complies with Decision Nos. 61383 and 61793..."

(2) ACC Decision No. 62011, in Findings of Fact 2, states:

"2. Decision 61383 (January 9, 1999) directed Citizens to file an analysis of alternatives and Plan of Action to rectify the service problems in the Santa Cruz Electric Division, for approval at Open Meeting, and order that a hearing be held regarding Citizens' request."

(3) ACC Decision No. 62011, in Finding of Fact 15, states:

15. The [Commission Staff-Citizens] Settlement Agreement **commits** Citizens to a Plan of Action that is in compliance with Decisions No. 61383 and 61793 and incorporates Staff recommendations... The Settlement Agreement states that the Plan of Action includes Citizens' submittal of April 15, 1999, as supplemented on May 7, 1999 and July 13, 1999."

(3) The Citizens Plan of Action, "Supplement to Citizens Utilities Company's Santa Cruz Electric Division Transmission Alternatives and Plan of Action" states under "Planned Improvements That are Not Dependent On Construction of Second Transmission Line"

"Citizens is currently replacing poles and cable. Attachment IV includes detailed schedules showing the areas where replacements will be made, the number of poles or amount of cable that will be replaced, and the capital expenditures to do so, for the years 1999-2003."

(4) **Exhibit M-D**, Citizens Plan of Action Supplement "Attachment IV Citizens Utility Company Pole and Cable Replacements Santa Cruz Electric District, 1999-2003," provides the same information consolidated in Magruder Testimonies, Tables 5 and 6.<sup>6</sup>

<sup>6</sup> Magruder Supplemental Testimony, 30(14)-(35)12).

(5) **Exhibit M-E**, from the "1999 System Improvement Santa Cruz District", excerpt from the Citizens Plan of Action section on "Distribution Circuits Improvements," states:

**"Overhead Circuits."**

The pole replacements are mainly concentrated in the Nogales area. These poles have reached the end of their life cycle. Some of these pole replacements involve the relocation of circuits, as in the case of Circuits 6241 and 6246. Circuit 6241 feeds the west-side of Nogales (and feeds the hospital). Circuit 6241 shares a pole with Circuit 6246. By relocating a portion of 6241, Citizens can reduce the stress on the poles and eliminate potential outages due to structural failures. Activation of Circuit 6246 will allow Citizens to split the load of the west-side of Nogales, and increase the ability to back feed 6241 in the even of damage.

A major portion of the pole replacements will be done along Highway 82 and into the mountains in the Lochiel area. These poles are also at the end of their useful life cycle. Along with pole replacements, Citizens is utilizing a gas right of way to bring in a loop feed into the Lochiel area. This loop will allow Citizens to sectionalize and isolate damaged portions of line, thereby keeping the highest number of customers in service.

**Underground Circuits**

Underground cable replacements are concentrated in Rio Rico and Tubac. The Rio Rico Urban 3 area was installed in the early 1970's. This cable was directly buried and is ending its useful life cycle. A significant number of outages occur in this area. Smaller sections of cables need to be replaced in other subdivisions, but not as much as in the above two subdivisions.

A significant portion of the cable replacements involves the underground feed to the top of Mount Hopkins. This cable was installed by a contractor in the 1970's, and was also direct buried. This cable has numerous faults. When a fault occurs, locating the faulted section requires an entire crew. It should be noted that because this part of the county is so far from the rest of the service territory, if there is an outage that requires the crew from Nogales, it takes a minimum of an hour for them to get there.

The major portion of the replacements in Nogales are in trailer parks. These parks also have cable that was directly buried and have numerous faults. The older sections of Meadow Hills area has the same type of cable installation. Some faults have occurred in this area, and some cable has been replaced as well." [Pages are not numbered in source, underlined for emphasis]

(6) The ACC Decision 66615 (9 December 2003), in Docket E-01032A-99-0401, in Finding of Fact No. 11, states:

"11. The Settlement Agreement approved by Decision No. 62011 committed Citizens to [a] Plan of Action as filed by Citizens on April 15, 1999, and supplemented on May 7 and July, 13, 1999 and incorporating Staff recommendations contained in pre-filed testimony of those proceedings. The Plan of Action included construction, operation and maintenance of new distribution infrastructure, improved restoration of service following transmission outages by use of newly developed restorative switching protocol, maintaining a distribution system operation center with remote supervisory control and data acquisition ("SCADA") capability and placing the Valencia generating units in standby mode during storm season." [Emphasis added]



Part II

Compliance and Implementation of ACC Decision No. 61793, et al.  
For the City of Nogales Agreement

2.1 Scholarship loans.

The UNSE Reply Post-Hearing Brief on 35 at 10-20, states:

"UNS Electric briefly addresses two allegations Mr. Magruder makes in his Opening Brief. First, Mr. Magruder states that '[e]ven though Mr. Pignatelli said seven scholarships have been awarded, my School Board contacts in Santa Cruz County state NONE have been awarded in compliance with this agreement. Mr. Magruder's assertion has not been supported by any reliable evidence presented before the close of the evidentiary hearing on October 2, 2007. Regardless, Mr. Pignatelli was correct. UNS Electric has, in fact, awarded seven scholarships to Nogales High School students between 1999 and 2003 through the Nogales Educational Foundation. And, as Mr. Pignatelli stated at the hearing, UNS Electric will provide additional scholarships if that was the agreement. Even though additional scholarships were not agreed upon, UNS Electric has nonetheless committed to fund additional scholarships not only for Nogales High School students, but also Rio Rico High School students over four years.'" [Emphasis added]

As stated in prefiled and oral Testimonies and Briefs, I discussed the scholarship loans with knowledgeable persons, including the Rico Rico School Unified District No. 35 Superintendent, Dr. Fontes, member of USD 35 School Board Mr. Vandervoet, the former Mayor and Nogales School District No. 1 Superintendent Dr. Verona, USD 1 School Board and County Supervisor Ruiz, and Late Mayor of Nogales Barraza. None have knowledge of any Citizens or UNS Electric-designated scholarships. The City of Nogales Attorney and Assistant were not aware of any scholarship awards. The above witnesses are the basis of my testimonial evidence. The Company did not respond to data requests; see **Exhibit M-C** for copies of Data Requests MM 2.8 and MM 31.10 with UNSE responses.

The UNS Reply Post-Hearing Brief stated involvement of the Nogales Educational Foundation. I contacted the Foundation's founder, retired Nogales High School Principal Mr. Clark who got me in touch with the Foundation, see **Exhibit M-B**. This newly discovered evidence was not reasonable to obtain until the Company's Reply Post-Hearing Brief. My personal and newspaper sources only provided negative evidence.

Information about these scholarship loans from **Exhibit M-B**, identified areas of NON-COMPLIANCE to Article 3 in **Exhibit M-A** which was verified by this new evidence:

1. No scholarships are for four-years.
2. No scholarships have been awarded since 2003 as all were awarded by Citizens.
3. No scholarships were awarded by UNS Electric.
4. All scholarships were awarded to same High School, none to Rio Rico High School
5. Three of the 7 scholarships were awarded to students attending Arizona colleges.

6. Two of the 7 scholarships are the "Jose Canez Memorial/Citizens Energy Scholarships" (included but considered doubtful if associated with the Settlement Agreement)
7. The scholarship "loan" provision to return to Santa Cruz County upon completion was not implemented.
8. There is no evidence that either Citizens or UNS Electric established a "program" to achieve the non-financial requirements of this Article, such as soliciting additional funds, etc.
9. See Table 1 for the total financial details of the scholarship loan program to date.

**Table 1 – Financial Status of the Scholarship Loan Program.**

Year	Number Awards	Attend Arizona college	Total Awarded this Year	Total To Be Awarded this Yea	Total Awarded To Date	Total To be Awarded to Date	Total Deficient
1999	1	No	\$1,250	\$12,000	\$1,250	\$12,000	\$10,750
2000	2	Yes, Yes	\$4,250	\$12,000	\$5,500	\$24,000	\$18,500
2001	1	No	\$3,000	\$12,000	\$8,500	\$36,000	\$27,500
2002	1	No	\$3,000	\$12,000	\$11,500	\$48,000	\$36,500
2003	2	Yes, No	\$3,500	\$12,000	\$15,000	\$60,000	\$45,000
2004	none	none	0	\$12,000	\$15,000	\$72,000	\$57,000
2005	none	none	0	\$12,000	\$15,000	\$84,000	\$69,000
2006	none	none	0	\$12,000	\$15,000	\$96,000	\$81,000
2007	None	None	0	\$12,000	\$15,000	\$108,000	\$93,000
ANNUALLY, thereafter				\$12,000			

10. The proposed Company's offer in its Reply Post-Hearing Brief limits scholarships to only the next four years. This fails to comply with the ACC Order or the Settlement Agreement. This is a \$3,000 ANNUAL four-year scholarship loan program the Company was aware cost \$12,000 per year when it signed the Agreement, unless the student did not return and it then converted into an interest-free loan.

11. No scholarship "loans" have been paid back to the Company by awardees that failed to return to Santa Cruz County after graduation, contrary to the specified intent established by the City of Nogales when it created this program. At least three named in Exhibit M-B have NOT returned to Santa Cruz County.

Conclusions. UNS Electric awarded NO scholarship loans and none awarded by Citizens were compliant with the City of Nogales – Citizens Agreement or ACC Order.

Recommendations. That a plan to reduce the scholarship award deficit in Table 1 (suggest two four-year \$3,000 scholarship loans per year) be implemented and the "program" mandated by the Settlement Agreement and ACC Order be implemented as intended.

**2.2 Citizens Advisory Council.** The Company has not re-established this ACC-mandated council. UNS Electric has never held any CAC meetings. The last meeting was in the fall of 2000. The Company did not respond to data requests MM DR 2.6 and MM DR 3.10 concerning the CAC; please see new **Exhibit M-C**.

Conclusions and Recommendations. Same as in Magruder Reply Brief.

Part III

Implementation of ACC Decision No. 62011, et al  
For the Replacements of Utility Poles and Underground Cables

3.1 Replacement of Utility Poles and Underground Cables

- The UNSE Reply Post-Hearing Brief,<sup>7</sup> states as a second Magruder allegation that
- a. Magruder did not present any evidence that these projects had not been completed.<sup>8</sup>

Magruder testimonial evidence under oath and pre-filed testimony showed

- (1) That his subdivision has NOT had its underground lines replaced,  
(2) That he personally a cable failure in late August 2005,  
(3) That the –Harvard-Smithsonian Mount Hopkins Observatory still does not have all its defective underground feeder cables replaced, see **Exhibit M-E**.

Credible evidence presented in the Magruder Surrebuttal Testimony is based the comprehensive list of work accomplished by the Company since August 2003, and, as testified, none matched any of the 32 replacement pole and cable projects.<sup>9</sup> The question to the Company to verify of accomplishment of the 32 projects remains unanswered.<sup>10</sup> Negative evidence presented is, of course, weaker as the Company is the best source for this evidence.

- b. Magruder did not cite an agreement that specifically required completion of these specific pole and cable projects.<sup>11</sup> These projects are contained in the Plan of Action, see **Exhibit M-D** attached.
- (1) ACC Order No. 61793 states “IT IS FURTHER ORDERED that Citizens shall provide a planned service date and cost benefit analysis for the cost of system components of the second transmission line included in its Plan of Action, as directed by Decision No. 68183...” (at 4 (11-13)) [Emphasis added].
- (2) ACC Decision No. 61793, Exhibit A, states “The Commission has asked Citizens to file its plan to address Santa Cruz County electric service issues. Citizens will file the final Service Upgrade Plan for approval in Citizens Separation Docket.” (at 4, 5)

<sup>7</sup> UNS Electric Reply Post-Hearing Brief, 35 (21)-36(8).

<sup>8</sup> *Ibid.*, 35 (21-24)

<sup>9</sup> Magruder Supplemental Testimony (Ex. M-23) for replaced utility poles, 31(22)-33(3) and for replaced underground cable at 33(31)-34(23). **Exhibit M-D** provides the evidence that was reformatted in Magruder's Testimonies.

<sup>10</sup> *Ibid.*, (24-27)

<sup>11</sup> UNS Electric Reply Post-Hearing Brief, 35 (24-24)

The settlement agreement approved in Decision No. 61793 (June 29, 1999) with the City of Nogales contains no provisions for pole replacements. The Company is confused. The City of Nogales Settlement Agreement, implemented by ACC Decision No. 61793, required Citizens to develop a Plan for ACC Approval,<sup>12</sup> that was in the Commission Staff Settlement Agreement (9 August 1999) and implemented by ACC Decision No. 62011.<sup>13</sup> The Commission Staff Settlement Agreement contains Attachment IV of the Plan of Action with the pole and cable replacement plans; see the new Magruder **Exhibit M-D** and **Exhibit M-E**. ACC Order No. 62011 implemented the Citizens' Plan of Action.

d. Footnote 135.<sup>14</sup> These 32 pole and cable replacements projects were not singled out, nor were about 25 additional reliability improvement projects in the Citizens Plan of Action including supplements. All were important, some with high costs, such as \$2.1 million for the Nogales Tap switch. The Citizens Supplemental Plan of Action was referenced is held by the Company. The original is at the ACC Docket Control.

- (1) The Company stated "the May 7, 1999 supplemental plan was not **even mentioned, let alone required**, per Decision Nos. 61793 or 62011" that is in error, see above quote from ACC Decision No. 62011, Finding of Fact No. 15.
- (2) A copy of the Citizens 7 May 1999 filing (ACC Docket No. E-01032A-98-0611, et al is within UNS Electric's filing on 9 February 2004, in response to "Commission Questions and Updated Outage Response Plan for Santa Cruz County," in the re-opened ACC Docket No. E-01032A-99-0401.
- (3) ACC Decision No. 66615 (9 December 2003) in Finding of Fact No. 11 confirmed the continuation of the ACC-approved Settlement Agreement in ACC Order No. 62011, as quoted above, for construction, operation and maintenance of new distribution infrastructure" which, by anyone's basic logic must include the 32 replacement pole and cable programs.
- (4) During the reopened ACC Docket No. E-01032A-99-0401, Magruder Testimony of 8 July 2005 (ACC Docket No. E-01032A-99-0401, Appendix E, discussed the lack of compliance with ACC Orders and other requirements that impact reliability in Santa Cruz County. During those hearings, UNS Electric also denied responding to my Data Requests concerning these same "poles and cables" issues now being adjudicated in this rate case.

<sup>12</sup> See ACC Decision No. 62011, Finding of Fact No. 2, quoted above and the preceding additional quotes.

<sup>13</sup> UNS Electric Reply Post-Hearing Brief, 35(25)-36(2)

<sup>14</sup> *Ibid.* 36(19-26).

- e. "Company has developed a target of replacement projects; those projects were also researched and engineered in detail." As requested by Data Requests MM DR 2-8 and MM DR 3-10, the Company's denial of responding to requests as to the compliance of these ACC Orders for replacements of deficient utility poles and underground cables has no merit. If such a program exists, why were my Testimonies on this, since 12 July 2007 ignored until this last minute flurry of defensive remarks?<sup>15</sup>
- f. No party supports Mr. Magruder's unfounded assertions on this issue.<sup>16</sup> The other two parties are interested in the usual rate case issues. Neither is concerned with reliability issues in Santa Cruz service area, these ACC Orders, and local factors. It is noted specific actions in ACC Order No. 62011 concern actions that the Commission Staff consider in the "next" rate case.

It is utterly amazing that the Company has never responded as to exactly what was, or was not, accomplished in the 32 projects. A continual reluctance to response makes believable doubtful compliance. Further, since Citizens was "for sale" from 1999-2003, expending capital funds for programs appears to be contrary to usual business practices in this situation.

It is noted that UNS Electric has not presented any positive evidence that these defective utility poles and underground cables have been replaced for any of these 32 projects. This begs the question, what was really accomplished for the over \$15.2 million Company-allocated to fund, Staff-reviewed, Company-agreed, ACC-approved, and publicly-committed by the Company to replace over 6,000 utility poles and over 61,000 feet of underground cables in known areas of unreliable, deficient, defective and/or faulty equipment between 1999 and 2007?

Conclusions. UNSE read my Closing Brief and determined this issue has merit. The brief snippets in the UNSE's Reply Post-Hearing Brief appear intended to silence him. Unfortunately, Magruder has not let up, as he is positive his subdivision has not had any underground cables replaced other than the one that failed in 2005 to his home, Mount Hopkins still has miles of faulty cables with numerous outages, and UNSE's San Rafael Valley and Mexican customers have a long track record of excessive outages on a long radial feeder circuit that extends for over 100 miles.

Recommendations. As stated in the Magruder Closing Brief. I provided some relief from earlier recommendations on this issue, based on discussions with UNSE Vice President Ferry.

<sup>15</sup> Magruder Supplemental Testimony Ex. M-23), 30(1)-35(12).

<sup>16</sup> UNS Electric Reply Post-Hearing Brief, 36 (7-8)

EXHIBITS

- Exhibit M-A** ACC Decision No. 61793, "City of Nogales, Arizona, Complaint, vs. Citizens Utility Company, Santa Cruz Electric Division" of 29 June 1999 with Appendix A, "Revised Settlement Agreement Between the City of Nogales, Arizona, and Citizens Utilities Company:" of 1 June 1999 (15 pages)
- Exhibit M-B** Email from Ms Romero, Nogales Educational Foundation with an Attachment containing the status of Citizens Energy Scholarships offered by the Foundation (2 pages)
- Exhibit M-C** UNS Electric Responses to Magruder Data Requests MM DR 2.6 and MM DR 3.10, and Data Requests MM DR 2.8 and MM DR 3.12 (6 pages)
- Exhibit M-D** Citizens' Plan of Action, filed 7 May 1999, excerpt, "Attachment IV Citizens Utility Company Pole and Cable Replacements Santa Cruz Electric District, 1999-2003," (6 pages)
- Exhibit M-E** Citizens' Plan of Action, filed 7 May 1999, excerpt, "1999 System Improvements Santa Cruz District" (4 pages)

Arizona Corporation Commission  
BEFORE THE ARIZONA CORPORATION COMMISSION  
DOCKETED

JUN 29 1999

EXHIBIT

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CARL J. KUNASEK  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
WILLIAM A. MUNDELL  
COMMISSIONER

DOCKETED BY

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CITY OF NOGALES, ARIZONA.

Complainant,

vs.

CITIZENS UTILITIES COMPANY, SANTA CRUZ  
ELECTRIC DIVISION,

Respondent.

DOCKET NO. E-01032B-98-0621

DECISION NO. 61793

**ORDER**

Open Meeting  
June 22 & 23, 1999  
Phoenix, Arizona

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On October 27, 1998, the City of Nogales, Arizona ("Nogales") filed a complaint with the Arizona Corporation Commission ("Commission") against Citizens Utilities Company ("Citizens") concerning electrical outages in Nogales, Arizona.

2. Citizens provides electric utility service to Nogales and Santa Cruz County pursuant to a certificate of Convenience and Necessity granted by the Commission.

3. In the Complaint, Nogales alleged that numerous electric outages caused by Citizens' failure to adequately maintain its transmission lines and back-up generation capacity have resulted in economic damages to Nogales and its residents and endangered the community's welfare.

4. On November 18, 1998, Citizens filed its Answer to the Complaint.

5. By Procedural Orders dated December 4 and 9, 1998, the Commission scheduled a hearing on the Complaint for January 21, 1999 in Nogales and scheduled a pre-hearing conference for December 29, 1998.

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6. On December 23, 1998, Nogales filed a Motion to Amend its Complaint. At the December 29, 1998 pre-hearing conference, Nogales requested that the hearing scheduled on January 21, 1999 be continued. Citizens agreed to the continuance. The parties agreed that Citizens would have until March 1, 1999 to file an Answer to the Amended Complaint and that another pre-hearing conference would be held on March 29, 1999 to reschedule the hearing in this matter.

7. On January 21, 1999, the Commission conducted a public comment meeting in Nogales in connection with this matter.

8. On February 16, 1999, the parties filed a settlement agreement with the Commission, and on February 25, 1999, the parties filed a Motion to Approve the Settlement Agreement. The parties requested that the Commission approve the Settlement Agreement without conducting a hearing, and that the Commission consider the matter at its regularly scheduled March 9 and 10, 1999 Open Meeting.

9. In response to the parties' Motion to Approve the Settlement Agreement, the Hearing Officer prepared a Recommended Order dismissing the complaint without prejudice, however, the parties filed exceptions and requested that the recommended order be withdrawn from the Open Meeting agenda.

10. A pre-hearing conference was held on March 29, 1999, at which time the parties represented that they continue to try to resolve the complaint and requested a hearing date be set.

11. By Procedural Order dated April 6, 1999, a hearing was scheduled for June 8, 1999, in Nogales in the event the parties were not able to agree to dismiss the complaint.

12. On June 2, 1999, Nogales filed a Motion to Dismiss Amended Complaint with Prejudice and a copy of a Revised Settlement Agreement between the parties. A copy of the Revised Settlement Agreement is attached hereto as Exhibit A, and incorporated by reference. In its Motion, Nogales asserts that the Revised Settlement Agreement resolves all outstanding claims that were brought or might have been brought in its Amended Complaint against Citizens and requests that the Commission dismiss the Amended Complaint with prejudice.



000-0001-0096

13. Under the terms of the Revised Settlement Agreement, Citizens will:
- (a) fund direct payments of \$15 to all customers in Santa Cruz County;
  - (b) provide a neutral claims resolution procedure for all customers in Santa Cruz County;
  - (c) fund low income relief for Nogales residents;
  - (d) fund Santa Cruz County economic-development efforts; and
  - (e) fund four-year, interest free loans for Santa Cruz County high school graduates.

## Citizens and Nogales will:

- (a) create a Citizens Advisory Counsel;
- (b) collaborate to determine the order in which circuits are energized in the event of future transmission-related outages;
- (c) develop a mutually acceptable service upgrade plan for submission to the Commission; and
- (d) negotiate a mutually acceptable 25-year franchise for Citizens.

14. Under the terms of the Revised Settlement Agreement, Nogales will dismiss its Amended Complaint with prejudice.

15. In separate dockets Citizens has requested Commission approval to separate into two separate companies ("Citizens Separation Dockets"). The Commission has requested Citizens to file its plan to address Santa Cruz County electric service issues in the Citizens Separation Dockets and by Procedural Order dated April 29, 1999, Citizens was directed to file a final engineering plan regarding the Santa Cruz Electric Division, according to the directives in Decision No. 61383 by June 11, 1999.

16. Citizens has subsequently requested withdrawal of its application in the "Separations

In the Matter of the Joint Notice of Intent of Citizens Utilities Company, Citizens Telecommunications of the White Mountains, Navajo Communications Company, Inc., Citizens Utilities Rural Company, Inc., Citizens Telecommunications Company, Sun City Sewer Company, Sun City Water Company, Sun City West Utilities Company, Citizens Water Service Company of Arizona, Citizens Water Resources Company of Arizona, Tubac Valley Water Company, Inc. and Electric Lightwave, Inc. to Organize a Public Utility Holding Company and for Related Approvals of Waivers Pursuant to R14-2-801, et seq., Docket Nos. E-01032A-98-0611, T-03214A-98-0611, T-02115B-98-0611, T01954B-98-0611, T-02755A-98-0611, SW-2276A-98-0611, W-01656A-98-0611, WS-02334A-98-0611, W-03454A-98-0611, W-03455A-98-0611, W-01595A-98-0611, T-03054A-98-0611.

1 Docket" to separate into two separate companies. This request has not yet been acted upon.

2 CONCLUSIONS OF LAW

- 3 1. Citizens is a public service corporation within the meaning of A.R.S. § 40-246.
- 4 2. The Commission has jurisdiction over Citizens and the subject matter of the
- 5 Complaint.
- 6 3. The parties have resolved their differences and the Complaint should be dismissed
- 7 with prejudice.

8 ORDER

9 IT IS THEREFORE ORDERED that the Amended Complaint filed by the City of Nogales

10 against Citizens Utilities Company is dismissed with prejudice.

11 IT IS FURTHER ORDERED that Citizens Utilities Company shall provide a planned service

12 date and cost benefit analysis for the cost of system components of the second transmission line

13 included in its Plan of Action, as directed by Decision No. 68183, in the "Separation Docket".

14 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

15 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

16

17 

18 CHAIRMAN

19 

20 COMMISSIONER

21 

22 COMMISSIONER

23 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive

24 Secretary of the Arizona Corporation Commission, have

25 hereunto set my hand and caused the official seal of the

26 Commission to be affixed at the Capitol, in the City of Phoenix,

27 this 29th day of June, 1999.

28 

BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_  
JR:dap

ORIGINAL

**BEFORE THE ARIZONA CORPORATION COMMISSION**

JIM IRVIN  
COMMISSIONER-CHAIRMAN  
RENZ D. JENNINGS  
COMMISSIONER  
CARL J. KUNASEK  
COMMISSIONER

FEB 16 8 56 AM '99

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DOCUMENT CONTROL

IN THE MATTER OF A COMPLAINT BY  
THE CITY OF NOGALES, ARIZONA  
AGAINST CITIZENS UTILITIES  
COMPANY, SANTA CRUZ ELECTRIC  
DIVISION.

DOCKET NO. E-01032B-98-0621

**NOTICE OF FILING**

Citizens Utilities Company hereby provides Notice of Filing a Resolution of the Mayor and Board of Aldermen in the City of Nogales, Arizona, Authorizing and Approving a Settlement Agreement with Citizens Utilities Company and Declaring an Emergency in the above-referenced docket.

RESPECTFULLY SUBMITTED February 16<sup>th</sup>, 1999.

*Craig A. Marks*

Craig A. Marks  
Associate General Counsel  
Citizens Utilities Company  
2901 N. Central Avenue, Suite 1660  
Phoenix, Arizona 85012

Original and ten copies filed this  
February 16, 1999, with:

Docket Control  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

# CITY OF NOGALES



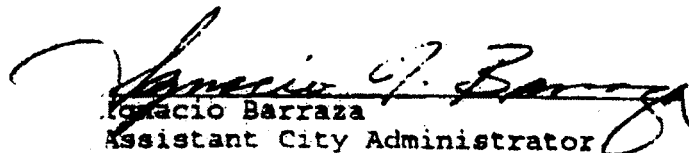
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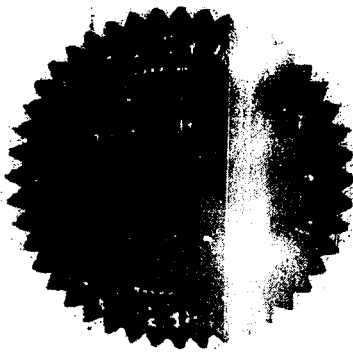
## CERTIFICATION

I hereby certify that the foregoing resolution is a true and correct copy of Resolution No. 99-02-16, adopted at the regular/special meeting of the City of Nogales Mayor and Council, held on the 12th day of February, 1999.

I further certify that meeting was duly called and held and that a quorum was present.

Dated this 12th day of February, 1999

  
Romacio Barraza  
Assistant City Administrator



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**RESOLUTION NO. 99-02-16**

**A RESOLUTION OF THE MAYOR AND BOARD OF ALDERMEN  
OF THE CITY OF NOGALES, ARIZONA, AUTHORIZING AND  
APPROVING A SETTLEMENT AGREEMENT WITH CITIZENS  
UTILITIES COMPANY; AND DECLARING AN EMERGENCY**

**WHEREAS** the City of Nogales filed a Complaint against Citizens Utilities Company ("Citizens") before the Arizona Corporation Commission regarding power outages experienced within the City and other matters; and


**WHEREAS** Citizens and the City have negotiated a proposed Settlement Agreement which addresses the City's claims for compensation and other matters;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Board of Alderman of the City of Nogales that

1. That certain Settlement Agreement Between City of Nogales, Arizona and Citizens Utilities Company (the "Agreement") attached hereto and made a part hereof as Exhibit "A" is hereby adopted and approved.
2. That the Mayor be authorized to execute the Agreement, and that City staff be and hereby are authorized to take all necessary and proper steps and actions to implement the Agreement;
3. That an emergency is hereby declared to exist, and this Resolution is hereby exempted from the referendum provisions of the Charter of the City of Nogales, and shall take effect and be in full force and effect from and after its passage and approval.

**PASSED, ADOPTED AND APPROVED** this 12th day of February, 1999.

CITY OF NOGALES

  
Cesar Rios, Mayor

**ATTEST:**

  
Ignacio Barrera, City Clerk

**APPROVED AS TO FORM:**

  
Hugh Holub, City Attorney

**BEFORE THE ARIZONA CORPORATION COMMISSION**

CARL J. KUNASEK  
CHAIRMAN  
TONY WEST  
COMMISSIONER  
JIM IRVIN  
COMMISSIONER

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IN THE MATTER OF A COMPLAINT BY  
THE CITY OF NOGALES, ARIZONA  
AGAINST CITIZENS UTILITIES  
COMPANY, SANTA CRUZ ELECTRIC  
DIVISION.

DOCKET NO. E-01032B-98-0621

**REVISED SETTLEMENT  
AGREEMENT BETWEEN CITY OF  
NOGALES, ARIZONA, AND  
CITIZENS UTILITIES COMPANY**

**RECITALS**

A. As a result of extensive discussions, the City of Nogales, Arizona ("City"), and Citizens Utilities Company ("Citizens"), (collectively, the "Parties") have agreed to resolve all issues raised in or relating to the City's Complaint before the Arizona Corporation Commission ("Commission").

B. Citizens will be providing compensation to the City and its customers for past damages relating to its provision of electric service by:

1. Funding direct payments to all customers in Santa Cruz County (Article 1);
2. Providing a neutral claims resolution procedure for all customers in Santa Cruz County (Article 2);
3. Funding low income relief for City Residents (Article 6);
4. Funding Santa Cruz County economic-development efforts (Article 7);
5. Funding four-year, interest free, loans for Santa Cruz County high school graduates that will be forgiven if the student returns to live and work in the County (Article 9).

Appendix "A"

DECISION NO.

61793

C. To improve future electric service and improve community relations, Citizens and the City will:

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1. Create a Citizens Advisory Council (Article 3);
2. Collaborate to determine the order in which circuits are energized in the event of future transmission-related outages (Article 4);
3. Develop a mutually acceptable Service Upgrade Plan for submission to the Commission (Article 5);
4. Negotiate a mutually acceptable 25-year franchise for Citizens (Article 8).

D. The City will dismiss its complaint in the above-captioned docket with prejudice (Article 10).

### **AGREEMENT**

The Parties agree as follows:

#### **1. Customer Payments**

To compensate Citizens' Santa Cruz County electric customers (including customers located within the City of Nogales) for the inconvenience and miscellaneous expenses resulting from electric outages before the date of this Agreement, Citizens will pay each customer as damages, the sum of \$15, as provided in this Article 1. Citizens has previously paid a lump sum to the City of \$188,700.00 (equal to \$15 times the number of Citizens' Santa Cruz County electric customers as of January 31, 1999.) Citizens has also previously provided the City a mailing list containing each customer's name and billing address. The City will distribute \$15 to each listed customer. Payments made under this section are separate from any that a customer might receive under Section 2, below.

The City recognizes that in the era of electric deregulation, Citizens' mailing list consists of proprietary, commercially-sensitive information. Accordingly, the City will:

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- a) keep Citizens' customer list confidential;
- b) use it for no other purpose than to carry out its obligations under this Section;
- c) make no copies except as necessary for that purpose; and
- d) return the list, together with any copies, to Citizens once those obligations are carried out.

## 2. Claims Resolution Procedure

After the City distributes the damage payments described in Section 1, Citizens will promptly mail to all its Santa Cruz County electric customers a copy of the damage claim form previously submitted to the City, together with (i) the instructions that were prepared by the City and (ii) a listing of all significant power outages occurring in Santa Cruz County since July 1998, by date, location, time and duration. Customers will be instructed where to send any claims for damages and the deadline (at least 45 days after receipt) for submitting claims. Customers will also be instructed that if Citizens and the customer are unable to resolve the disputed claim, the claim will be submitted to a neutral third-party arbitrator, acceptable to Citizens and the City, for prompt resolution. The third party's decision will be final.

At the time the damage claim forms are mailed, Citizens will also place a one-quarter page advertisement in appropriate local media that includes a copy of the form and accompanying instructions. Citizens will repeat the advertisement, approximately three weeks after the initial publication. Beginning approximately two weeks after the forms are sent out, Citizens will include a bill insert with bills rendered during its next billing cycle to remind customers of the deadline for submitting claims. Forms and instructions will also be made available in all bill-paying offices.



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**3. Citizens Advisory Council**

The City and Citizens will work to promptly create a Citizens Advisory Council ("CAC"). The CAC will be made up of a representative from Citizens, a representative from the City and other members representing various customer constituencies. The Commission Staff will be encouraged to participate as a full member.

The CAC will meet regularly (as agreed by its members) to discuss electric and gas service issues, upcoming Commission filings and other topics of mutual interest such as electric deregulation and demand-side management. The CAC will also assist Citizens in evaluating alternatives for long-term electric reliability in Santa Cruz County, such as a second transmission line, and recommend a preferred alternative to Citizens and the Commission.

**4. Back-up Generation**

Citizens will collaborate with the City to determine the initial order in which circuits are energized in the event of an outage on the Western Area Power Administration line or Citizens' 115 kV sub-transmission line that requires Citizens' gas-fired turbines to be energized. The purpose of this collaboration is to ensure that the highest-priority circuits (such as hospitals, utilities, and public services) come on-line first. This topic will also be periodically reviewed by the CAC. In collaboration with the CAC, Citizens will evaluate whether to keep generation in spinning reserve during inclement weather. The City will support any amendments to Citizens' current air quality permit that are needed to accommodate any resulting increased usage of the gas-fired turbines.

**5. Citizens' 1996-2001 Service Upgrades**

Citizens will prepare a detailed summary of all activities taken and funds expended to improve service quality in Santa Cruz County from January 1, 1996, to the date of the summary ("Service Upgrade Plan"). The Service Upgrade Plan

will also include activities to be taken and funds to be expended during the balance of 1999, and the years 2000 and 2001. Supporting detail will be included in an Appendix or Appendices to the Service Upgrade Plan.

Citizens will submit a draft Service Upgrade Plan for comments to the City and the Residential Utility Consumer Office ("RUCO"). RUCO is an independent state agency, funded by assessments upon Arizona's utilities that is charged with representing the interests of residential utility consumers in regulatory proceedings before the Commission. RUCO employs a knowledgeable and experienced staff, including Prem Bahl, formerly the Commission's chief electrical engineer.

Citizens will promptly respond to any requests for information received from the City or RUCO concerning the Service Upgrade Plan or other issues of electric service quality. RUCO will independently evaluate whether the activities and expenditures described in the Service Upgrade Plan are and will be adequate to provide the residents of Santa Cruz County with safe, reliable, high quality electric service.

Citizens, the City, and RUCO will then develop a mutually-acceptable final Service Upgrade Plan. At RUCO's request, Citizens will compensate RUCO for its expenses associated with reviewing and commenting on the Plan. In the Commission dockets that are addressing Citizens' requested separation into two separate companies ("Citizens' Separation Dockets"<sup>1</sup>), the Commission has asked Citizens to file its plan to address Santa Cruz County electric service issues.

<sup>1</sup> In The Matter Of The Joint Notice Of Intent Of Citizens Utilities Company, Citizens Telecommunications Of The White Mountains, Navajo Communications Company, Inc., Citizens Utilities Rural Company, Inc., Citizens Telecommunications Company, Sun City Sewer Company, Sun City Water Company, Sun City West Utilities Company, Citizens Water Service Company Of Arizona, Citizens Water Resources Company Of Arizona, Tubac Valley Water Company, Inc., And Electric Lightwave, Inc. To Organize A Public Utility Holding Company And For Related Approvals Or Waivers Pursuant To R14-2-801, Et Seq., Docket Nos. E-01032A-98-0611, T-03214A-98-0611, T-02115B-98-0611, T-01954B-98-0611, T-02755A-98-0611, SW-2276A-98-0611, W-01656A-98-0611, WS-02334A-98-0611, W-03454A-98-0611, W-03455A-98-0611, W-01595A-98-0611, T-03054A-98-0611.

Citizens will file the final Service Upgrade Plan for approval in Citizens' Separation Dockets.

**6. Low-Income Relief**

Mayor Cesar Rios and other concerned Nogales citizens have been providing emergency relief to assist low-income residents obtain and retain utility services, food, housing, and other basic human needs. Citizens will donate \$30,000 in cash and \$20,000 in in-kind services to assist this noteworthy effort. The City will formalize Mayor Rios' outreach by creating a charity that will be qualified under IRS section 501(c)(3).

Within 30 days of the Parties' execution of this Revised Settlement Agreement, Citizens will provide \$15,000 of the cash donation. The balance of the cash donation will be provided within 30 days of the charity's qualification under section 501(c)(3). Based upon availability of materials and personnel, the in-kind services will be provided as needed during the one-year period following the Parties' execution of this Revised Settlement Agreement.

**7. Economic Development**

The City intends to create an Economic Development Roundtable to develop needed infrastructure, attract new commercial and industrial businesses and to apply for and receive federal and state grant money. As seed money for the Roundtable, Citizens has contributed \$150,000. Citizens will contribute an additional \$100,000 by January 31, 2000. The Roundtable is expected to be self-sufficient by the beginning of the year 2001. Citizens will provide one representative to the Roundtable. During the period 1999-2000, Citizens will also fund two economic development trips within North America (up to one week), for up to four Roundtable representatives each trip.

Working with the Roundtable and the CAC, Citizens will develop new-business-incentive-rate tariffs intended to attract new businesses to Santa Cruz

County and will evaluate appropriate changes to existing commercial and industrial tariffs. Any resulting changes will be filed with the Commission for approval.

#### **8. Franchise**

Citizens is presently operating in the City of Nogales without a franchise. In response to Citizens' good-faith compliance with the terms of this Agreement, the Parties will work together to negotiate a mutually acceptable, 25-year franchise to submit to City voters for their approval.

#### **9. Educational Support**

A skilled, knowledgeable work force will be a key to Santa Cruz County's success in the 21<sup>st</sup> century. Following the Parties' execution of this Revised Settlement Agreement, the City and Citizens will work together to develop an educational assistance program to assist worthy Santa Cruz County high-school seniors attend the Arizona college of their choice. Each year, the program will select one County senior for a four-year, interest free loan to assist with tuition, books, and miscellaneous college expenses. If, following graduation, the student returns to Santa Cruz County to live and work, the loan will be forgiven. Citizens will contribute \$3000 per year, per student, toward this program. Other contributions will be solicited from other benefactors to expand this program even further, such as to cover some portion of room and board, graduate school, or vocational programs.

#### **10. Miscellaneous**

This Revised Settlement Agreement resolves all outstanding claims and issues that were brought or might have been brought in Docket No. E-01032B-98-0621. The City will expeditiously move to dismiss its Complaint in this docket with prejudice. Citizens' activities under this Revised Settlement Agreement remain subject to the continuing jurisdiction of the Commission, by virtue of Citizens' status as a public service corporation under Arizona law.

This Revised Settlement Agreement is a compromise and settlement of disputed claims and issues. By signing this Revised Settlement Agreement, neither Party admits any liability in respect to any matter. Further, neither of the Parties compromises or otherwise waives the positions they have taken or might take on any issue.

This Revised Settlement Agreement binds the successors and assigns of the Parties. The provisions of this Revised Settlement Agreement are not severable.

**ACCEPTED:****Citizens Utilities Company**

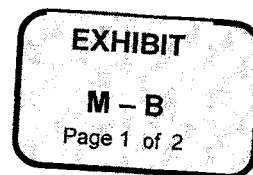
Dated June 1st, 1999

End V. 2.0 For J. Michael Love  
J. Michael Love  
President, Citizens Utilities Company  
Public Services Sector

**City of Nogales, Arizona**

Dated June 1st, 1999

Cesar Rios  
Cesar Rios  
Mayor, City of Nogales



**Marshall Magruder**

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**From:** "Frances Romero" <fromero@nUSD.k12.az.us>  
**To:** <marshall@magruder.org>  
**Sent:** Monday, December 17, 2007 2:26 PM  
**Attach:** Citizen Energy 1 Mr. Clark.doc  
**Subject:** Citizen Utilities Scholarship

Good afternoon Mr. Marshall,

My name is Frances Romero, guidance secretary and scholarship coordinator for Nogales High School. Attached you will find information requested by Mr. Clark regarding the Citizen Utilities Scholarship. If you need any other information about the past scholarship or our current program, please do not hesitate to contact me.

*Frances Romero*  
*NHS Guidance/Scholarship Coordinator*  
*(520) 377-2021 Ext. 7710*

The Citizen Energy Scholarship was offered thru the Nogales Educational Foundation with no criteria. The recipients were selected by an anonymous committee made up of NHS staff and administrators and the presenter was always Ernie Ojeda.

Here is information on the recipients:

**Citizen Energy Scholarship:**

2003- \$2,500 Evelina Gonzales	Attending University of Miami
\$1,000 Nicole Naff	Will graduate this December from the UofA with a dual degree in Math & Bio Chemistry. She plans on continuing grad school in Washington.
2002- \$3,000 Elizabeth Peters	Graduate of University of New Orleans with a degree in English/Spanish. Elizabeth is on her way to Spain to teach English.
2001- \$3,000 Brian Federico	Graduate of Lewis & Clark University with a degree in English/Spanish. Brian is Assistant to Dean of Admissions at Lewis & Clark.
2000- \$3,000 Daniel Moran	Graduate of Arizona State University with a degree in Political Science. Masters in Communication from Boston University.

**Jose Cañez Memorial/Citizen Energy:**

2000 - \$1,250 Javier Favela	Arizona State University
1999 - \$1,250 Adelina Cripe	McPherson College in Kansas

**UNS ELECTRIC, INC.'S RESPONSE TO  
MR. MAGRUDER'S SECOND SET OF DATA REQUESTS  
DOCKET NO. E-04204A-06-0783  
June 19, 2007**

**MM DR 2.6**

A Settlement Agreement filed under Docket No. E-01032B-09-0621, as Exhibit A to ACC Decision 61793, "Revised Settlement Agreement Between the City of Nogales, Arizona, and Citizens Utilities Company," resolved issues which arose under the prior Complaint by the City of Nogales against Citizens before the ACC. ACC Decision 62011 reaffirmed Decision 61793. This Settlement Agreement provided compensation to the City and its customers for past damages by funding certain items including

- (1) Santa Cruz County economic-development efforts,
- (2) funding four-year, interest free, [\$3,500 per year up to four years] loans for Santa Cruz high school graduates that will be forgiven if the student returns to live and work in the County, and
- (3) improved electrical service and improved community relations by the creation of a Citizens Advisory Council and collaborate to determine the order in which circuits are energized in the event of future transmission-related outages and develop a mutually acceptable Service Upgrade Plan for submission to the Commission.

As a part of the agreement, the City dismissed its complaint in this docket with prejudice.

- a. Does UNS Electric acknowledge that the compensation obligations under this ACC Order pertain to the existing Company?
- b. If not, please provide all document related to deletion of any of the obligations of the City of Nogales-Citizens Settlement Agreement, in particular (1) to (3) as the others appear completed, from being UNS Electric obligations to fulfill.
- c. For (1) above, how much "seed" money" for economic development was provided to the Citizens Advisory Council and an Economic Development Roundtable to "develop new-business incentive-rate tariffs intended to attract new business to Santa Cruz County?"
- d. For (1) above, has the utility reported the results of an evaluation of "appropriate changes to existing and commercial and industrial tariffs" and submitted same to the ACC for approval?
- e. For (2) above, in Article 9 of the Settlement Agreement, is



**UNS ELECTRIC, INC.'S RESPONSE TO  
MR. MAGRUDER'S SECOND SET OF DATA REQUESTS  
DOCKET NO. E-04204A-06-0783  
June 19, 2007**

**EXHIBIT**

**M - C**

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states "Each year, the program will select..." applicants for the annual scholarship [loan] program. In view of this being a continuing cost which would be required to be repaid by the student if they did not return to work in Santa Cruz County, provide the name of each scholarship awardees, year of award, number of years that awardees received the scholarship loans, total loans award per scholarship, and if the awardees returned to live or not live in the County, and the loan amount forgiven for each scholarship.

- f. Does the Company publish announcements about this excellent scholarship loan program and has the company any follow-up on the success or failure of this important program for Santa Cruz County?
- g. For (2) above, please list the annual cost for scholarships for each year since inception to present.
- h. For (2) above, please provide a list of local contacts used by UNSE to coordinate this program.
- i. For (3) above, provide the status of the economic development activities initiated since this ACC Order and any improved communications since the creation of the Citizens Advisory Council.
- j. For (3) above, provide the amount of initial "seed" money provided to the Citizens Advisory Council and an Economic Development Roundtable. Has any additional money been provided to these and, if so, how much and when?
- k. For (3) above, are the "new-business incentive-rate tariffs" included in this rate case?
- l. For (3) above, show how the proposed business tariffs will "attract new business to Santa Cruz County" and, if similar impacts are expected, for Mohave County.
- m. For (3) above, please provide copies of all Citizens Advisory Council (CAC) agenda, minutes, and actions accomplished during these meetings.
- n. For (3) above, has the CAC discussed the UNSE and UNSG demand side management plans and Time of Use (TOU) impacts, as proposed in these rate cases? If so, please provide any UNSE documentation presented at these meetings concerning this rate case.
- o. For (3) above, are the CAC meetings still being "regularly

**UNS ELECTRIC, INC.'S RESPONSE TO  
MR. MAGRUDER'S SECOND SET OF DATA REQUESTS  
DOCKET NO. E-04204A-06-0783  
June 19, 2007**

held"? If not, provide all documentation that relieves the Company for holding these' meetings.

- p. For (3) above, please provide the "order of circuits after transmission outages" plan.

**RESPONSE:**

UNS Electric objects to this data request, as it is unduly burdensome and outside the scope of this rate case.

**UNS ELECTRIC, INC.'S RESPONSE TO  
MR. MAGRUDER'S THIRD SET OF DATA REQUESTS  
DOCKET NO. E-04204A-06-0783  
July 16, 2007**

**MM DR 3.10**

UNSE objected to MM DR 2.6 in your response, which is re-worded below

- a. Does UNSE consider it is required to comply with ACC Order No. 61793 and the Settlement Agreement between Citizens and the City of Nogales?
- b. What has UNSE accomplished since 2003 to meet the economic development efforts including establishing "new-business incentive tariffs" in this rate case?
- c. What have been the annual costs since 2003 for the annual scholarship-loan mandated by ACC Order No. 61793?
- d. How many students have returned to Santa Cruz County so that the loan was absorbed by UNSE?
- e. What have been the Citizens Advisory Council (CAC) efforts in improving community relations since 2003?
- f. Has the CAC reviewed and provided inputs to UNSE about the ongoing options for Demand-Side Management, as the Nogales Settlement Agreement indicated this area is one of interest for the CAC?
- g. What have been the annual costs to comply with ACC Order No. 61793 since 2003?
- h. If UNSE wants to respond to any part of MM DR 2.6, please do here or indicate no.

**RESPONSE:**

UNS Electric continues to object to this data request, as it is unduly burdensome and outside the scope of this rate case.

**UNS ELECTRIC, INC.'S RESPONSE TO  
MR. MAGRUDER'S SECOND SET OF DATA REQUESTS  
DOCKET NO. E-04204A-06-0783  
June 19, 2007**

**MM DR 2.8**

Does UNSE have any statements from the ACC Compliance Officer showing compliance with any of the below ACC Orders? If so, provide all related compliance documentation and reports including the Company's annual cost to comply.

- a. ACC Order 61383
- b. ACC Order 61793
- c. ACC Order 62011
- d. ACC Order 64356
- e. ACC Order 66028
- f. ACC Order 66615
- g. ACC Order 67151
- h. ACC Order 67506
- i. ACC Order 67508
- j. Any other ACC Orders that require compliance, and impact UNSE rates or capital improvements since 11 August 2003
- k. What has been the annual costs since 2003 to comply with each of these ACC and other ACC orders (in j above)?

**RESPONSE:**

UNS Electric objects to this data request, as it is unduly burdensome and outside the scope of this rate case.

**UNS ELECTRIC, INC.'S RESPONSE TO  
MR. MAGRUDER'S THIRD SET OF DATA REQUESTS  
DOCKET NO. E-04204A-06-0783  
July 16, 2007**

**MM DR 3.12**

USNE objected to MM DR 2.8 in your response, which is re-worded below.

- a. What has been the estimated total cost to comply with the ACC Orders listed in MM DR 2.8?
- b. Do any of these ACC Orders appear to require excessive efforts to comply, does UNSE have any suggestions or recommendations to "streamline" these reports and compliance documentation?
- c. Do any of these compliance reports lend to combination with others that this rate case could order to facilitate reporting while retaining, at least, the minimum reporting requirements now required? If so, please provide these so they might be included as recommendations in the resulting order for this rate case.
- d. Base on "b" and "c" above, what would UNSE estimate the annual savings to be is such streamline was implemented?
- e. If UNSE wants to respond to any part of MM DR 2.8, please do here or indicate no.

**RESPONSE:**

- a.-d. UNS Electric continues to object to this data request as it is irrelevant to, and outside the scope of, this rate case.
- e. No.

**RESPONDENT:**

Legal Department

92001-10000-015

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## **ATTACHMENT IV**

**CITIZENS UTILITY COMPANY**

**POLE AND CABLE REPLACEMENTS  
SANTA CRUZ ELECTRIC DISTRICT  
1999-2003**

EXHIBIT

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	Pole Replacements					
	# of Poles	1999	2000	2001	2002	2003
1 Nogales West area	75	300,000	0	0	0	0
2 Nogales West north area	75	90,000	30,000	30,000	30,000	30,000
3 Reconstructor Mariposa Industrial Park	75	90,000	75,000	0	0	0
4 Downtown Southeast	300	360,000	120,000	120,000	120,000	120,000
5 Downtown Northwest	300	360,000	120,000	120,000	120,000	120,000
6 Downtown Southwest	600	474,000	200,000	200,000	200,000	200,000
7 Downtown Northeast	300	360,000	120,000	120,000	120,000	120,000
8 Beatus Estates	150	180,000	60,000	60,000	60,000	60,000
9 Valle Verde	150	180,000	60,000	60,000	60,000	60,000
10 Chula Vista	60	60,000	20,000	20,000	20,000	20,000
11 Activate Circuit 6242	100	180,000	60,000	60,000	60,000	60,000
12 Circuit 6241	60	60,000	20,000	20,000	20,000	20,000
13 Meadow Hills North	75	90,000	30,000	30,000	30,000	30,000
14 Meadow Hills South	75	90,000	30,000	30,000	30,000	30,000
15 Transmission Line	20	320,000	120,000	120,000	120,000	120,000
16 Highway 82	250	275,000	120,000	120,000	120,000	120,000
17 Old Tucson Road	10	25,000				
18 Rio Rico Highway Crossings		125,000				
19 Rio Rico Industrial Park	25	100,000				
20 Flux Canyon area	500	800,000	200,000	200,000	200,000	200,000
	3,080	\$4,320,000	\$1,265,000	\$1,190,000	\$1,180,000	\$1,160,000

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## Cable Replacements

	Total (ft.)	1999	2000	2001	2002	2003
1 Mariposa Manor	7,677	61,416	61,416	61,416	61,416	61,416
2 Monte Carlo	12,040	96,320	96,320	96,320	96,320	96,320
3 Rio Rico U-3	28,160	225,280	225,280	225,280	225,280	225,280
4 Preston Trailer Park	3,633	29,064	29,064	29,064	29,064	29,064
5 Tubac Country Club	6,900	55,200	55,200	55,200	55,200	55,200
6 Tubac Valley Country Club	4,300	34,400	34,400	34,400	34,400	34,400
7 Palo Parado	13,530	108,240	108,240	108,240	108,240	108,240
8 Empty Saddle Estates	8,180	65,440	65,440	65,440	65,440	65,440
9 Mt Hopkins	52,800	422,400	422,400	422,400	422,400	422,400
10 Meadow Hills	15,840	126,720	126,720	126,720	126,720	126,720
11 Canyon Del Oro/Vista Del Cielo	4,500	36,000	36,000	36,000	36,000	36,000
12 Rio Rico Resort	1,828	14,624	14,624	14,624	14,624	14,624
	159,388	\$1,310,104	\$1,275,104	\$1,275,104	\$1,275,104	\$1,275,104



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**Underground Cable Replacements**

No.	Project	Estimated Cost
1	Mariposa Manor	61,416
2	Monte Carlo	48,160
3	Rio Rico U-3	327,560
4	Preston Trailer Park	29,064
5	Tubac Country Club	55,200
6	Tubac Valley Country Club	34,400
7	Palo Parado	54,120
8	Empty Saddle Estates	65,440
9	Mt Hopkins	457,400
10	Meadow Hills	126,720
11	Canyon Del Oro/Vista Del Cielo	36,000
12	Rio Rico Resort	<u>14,624</u>
		1,310,104

**O/H Projects**

No.	Project	Estimated Cost
1	Nogales West area	300,000
2	Nogales West north area	90,000
3	Reconductor Mariposa Industrial P	90,000
4	Downtown Southeast	360,000
5	Downtown Northwest	360,000
6	Downtown Southwest	474,000
7	Downtown Northeast	360,000
8	Beatus Estates	180,000
9	Valle Verde	180,000
10	Chula Vista	60,000
11	Activate Circuit 6242	180,000
12	Circuit 6241	60,000
13	Meadow Hills North	90,000
14	Meadow Hills South	90,000
15	Transmission Line	320,000
16	Highway 82	275,000
17	Old Tucson Road	25,000
18	Rio Rico Highway Crossings	126,000
19	Rio Rico Industrial Park	100,000
20	Flux Canyon area	<u>600,000</u>
		4,320,000

**Upgrade Projects**

No.	Project	Estimated Cost
1	Telephone System	140,000
2	Capacitors	230,000
3	SEL Relays	150,000
4	Normal Capital Budget	2,190,000

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5	Valencia Reclosers & Scada	650,000
6	Valencia Regulator Replacements	224,514
7	Sonoita Substation Regulators	224,514
8	Valencia Breakers	152,000
9	Valencia Regulators Switches	45,000
10	Valencia Busswork	50,000
11	Padmounted Switchgear	12,000
12	Single Phase Reclosers	75,000
13	Remote Monitors	35,000
14	115 kV Breakers	100,000
15	Dispatch Center	150,000
16	Control Air Upgrade	75,000
17	Vacuum Breakers	300,000
18	SCADA Remote in Control Room	<del>30,000</del>
		4,807,000

No.	Project	Estimated Cost
1	Nogales Tap Upgrade	2,100,000
2	Synchronizing Capability	<del>100,000</del>
		2,200,000
Total		12,637,104

**EXHIBIT****M - D**

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**Cable Replacements  
Progress to Date**

	Estimated Ft	Actual Ft
1 Mariposa Manor	1,535	-
2 Monte Carlo	2,408	2,454
3 Rio Rico U-3	5,832	14,157
4 Preston Trailer Park	727	-
5 Tubac Country Club	1,380	-
6 Tubac Valley Country Club	860	7,290
7 Palo Parado	2,706	-
8 Empty Saddle Estates	1,636	-
9 Mt Hopkins	11,435	-
10 Meadow Hills	3,168	-
11 Canyon Del Oro/Vista Del Cielo	900	1,840
12 Rio Rico Resort	366	-
	<u>32,753</u>	<u>25,741</u>

**Pole Replacements  
Progress to Date**

	Estimated Number	Actual Number
1 Nogales West area	75	26
2 Nogales West north area	15	28
3 Recondutor Mariposa Industrial Park	1	1
4 Downtown Southeast	60	74
5 Downtown Northwest	60	115
6 Downtown Southwest	100	91
7 Downtown Northeast	60	20
8 Beatus Estates	-	-
9 Valle Verde	30	106
10 Chula Vista	2	-
11 Activate Circuit 6246	-	-
12 Circuit 6241	10	-
13 Meadow Hills North	15	-
14 Meadow Hills South	15	-
15 Transmission Line	2	-
16 Highway 82	60	148
17 Old Tucson Road	10	9
18 Flux Canyon area	100	-
19 Rio Rico Industrial Park	1	16
	<u>616</u>	<u>634</u>

9400-30-010

EXHIBIT

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# **1999 System Improvement**

## **Santa Cruz District**

**EXHIBIT**

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**INTRODUCTION**

**Valencia Substation Improvements**

Introduction

Site Structure

15-kV Breakers

Voltage Regulation

Protective Relaying and Controls

Breaker Controls

**Sonoita Substation Improvements**

Introduction

Voltage Regulation

Controls and Substation Building

Installation of 115-kV Sectionalization Equipment

**Kantor Substation Improvements**

Introduction

Installation of 115KV Sectionalization Equipment

**WAPA Nogales Tap Upgrades**

Introduction

System Synchronization Equipment

Nogales Tap Switching Station

**Distribution Circuits Improvements**

Introduction

Overhead Circuits

Underground Circuits

**Generation System Improvements**

Introduction

General Electric System Study

Voltage Regulator Replacement

DC Power System Improvements

Air Blast Circuit Breaker Replacement

Starting Ratchet Upgrade

Protective Relaying Improvement

9500-NOOD-0-FUR

Circuit 7201 out of the Kantor substation. Power Engineers is designing a plan for incorporating the circuit switcher into the Kantor substation.

## **Distribution Circuits Improvements**

EXHIBIT

M - E

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### **Introduction**

The distribution system improvements are an acceleration of work that was begun in 1994. These projects include the replacement of poles and underground cable. In 1994, pole replacements were concentrated in the northern part of Santa Cruz County. Some of the overhead work involves splitting circuits that share poles, in one case it involves the activation of an additional circuit in Nogales. Underground cable replacements are targeted at reducing outage hours in areas that have experienced frequent outages.

### **Overhead Circuits**

The pole replacements are mainly concentrated in the Nogales area. These poles have reached the end of their life cycle. Some of the pole replacements involve the relocation of circuits, as in the case of Circuits 6241 and 6246. Circuit 6241 feeds the west-side of Nogales (and feeds the hospital). Circuit 6241 shares a pole with Circuit 6246. By relocating a portion of 6241, Citizens can reduce the stress on the poles and eliminate potential outages due to structural failures. Activation of Circuit 6246 will allow Citizens to split the load on the west-side of Nogales, and increase the ability to back feed 6241 in the event of damage.

A major portion of the pole replacements will be done along Highway 82 and into the mountains in the Lochiel area. These poles are also at the end of their useful life cycle. Along with pole replacements, Citizens is utilizing a gas right of way to bring in a loop feed into the Lochiel area. This loop will allow Citizens to sectionalize and isolate damaged portions of line, thereby keeping the highest number of customers in service.

### **Underground Circuits**

Underground cable replacements are concentrated in Rio Rico and Tubac. The Rio Rico Urban 3 area was installed in the early 1970's. This cable was directly buried and is ending its useful life cycle. A significant number of outages occur in this area. Smaller sections of cables need to be replaced in other subdivisions, but not as much as in the above two subdivisions.

A significant portion of the cable replacements involves the underground feed to the top of Mount Hopkins. This cable was installed by a contractor in the 1970's, and was also direct buried. This cable has numerous faults. When a fault occurs, locating the faulted section requires an entire crew. It should be noted that because this part of the county is so far from the rest of the service territory, if

there is an outage that requires the crew from Nogales, it takes a minimum of an hour for them to get there.

The major portion of the replacements in Nogales are in trailer parks. These parks also have cable that was direct buried and have numerous faults. The older sections of the Meadow Hills area has the same type of cable installation. Some faults have occurred in this area, and some cable has been replaced as well.

## **Generation System Improvements**

### **Introduction**

The Hitachi/General Electric Frame 5 Combustion turbines were retrofitted with new control systems during 1997. The new controls systems included advanced microprocessor based sequencing and governor controls. In addition, increased historical data recording was incorporated to facilitate troubleshooting and compliance reporting. The controls supplier provided a complete combustion controls system, ancillary equipment needed for gaseous and liquid fuel control, as well as water injection. The result of these upgrades was an approximately 30% increase in generator output ratings on peak. The capacity upgrade, when integrated with the current APS purchase power contract, realized over \$500,000 of incremental capacity credits. This flowed through to customers as lower purchased power costs. The following is a list of the additional improvements that are scheduled or have been completed in 1999.

### **General Electric System Study**

One of the areas needing further analysis following the outages last year was the difficulty of picking up load initially following a black start scenario. Testing of the controls systems have shown no apparent problems. It appears there is an issue of system voltage imbalance or stability during load restoration in an island mode. The company has contracted with the General Electric Company ("GE") to simulate this situation on the turbines and examine the voltage regulator response to high voltage transients. This study will focus on the impacts of system voltage support equipment on system voltage and frequency levels during restoration activities. In addition, GE will be providing technical assistance in replacing protective relays and voltage regulators on the units.

### **Voltage Regulator Replacement**

One of the final control system improvements will be the installation of a new voltage regulator system on each of the turbines. The present systems will be replaced with solid state devices. This will improve regulator response and improve regulator maintainability and reliability.

ORIGINAL

BEFORE THE ARIZONA CORPORATION

COMMISSIONERS

Kristin K. Mayes

Gary Pierce

Sandra D. Kennedy

Paul Newman

Bob Stump

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2009-11-18 A 9:44

ARIZONA CORPORATION

Exhibit

MM-2

Page 1 of 5 pages

IN THE MATTER OF THE FORMAL  
COMPLAINT OF MARSHALL MAGRUDER  
FILED WITH THE ARIZONA CORPORATION  
COMMISSION ON DECEMBER 5, 2008

Docket No. E-04204A-08-0589

IN THE MATTER OF THE APPLICATION OF  
UNS ELECTRIC, INC. FOR APPROVAL OF  
THE ESTABLISHMENT OF JUST AND  
REASONABLE RATES AND CHARGES  
DESIGNED TO REALIZE A REASONABLE  
RATE OF RETURN ON THE FAIR VALUE OF  
THE PROPERTIES OF UNS ELECTRIC, INC.

Docket No. E-04204A-06-0783

Filing of Miscellaneous Documents

18 November 2009

On November 18, 2009, a Procedural Conference was held on these matters. During the conference, this party mentioned a letter from the City of Nogales to UNS Electric, of 24 June 2008, that is in Attachment 1. Also, this party discussed but didn't present, some possible corrections to a Procedural Order of 2 September 2009, for consideration, that are in Attachment 2.

I certify this filing has been mailed or delivered to parties on the Service List this date.

Respectfully submitted on this 18<sup>th</sup> day of November 2009.

MARSHALL MAGRUDER

Arizona Corporation Commission

DOCKETED

NOV 20 2009

DOCKETED BY

By Marshall Magruder

Marshall Magruder

PO Box 1267

Tubac, Arizona 85646

(520) 398-8587

marshall@magruder.org

Attachments:

- 1 - Nogales Deputy City Attorney Michael Massee ltr to UNS Electric, Inc's, Ms. Michelle Livengood of 24 June 2008 (copy from email, original on City of Nogales letter paper)
- 2 - Review Of Recommended Corrections To Procedural Order Of 2 September 2009



## Service List

2 Original and 14 copies of the foregoing are filed this date:

3 **Docket Control** (13 copies)

4 **Arizona Corporation Commission**

5 1200 West Washington Street

6 Phoenix, Arizona 85007-2927

7 ACC Staff (1 copy)

8 **Kevin Torres**, Legal Department

9 **Jane L. Rodda**, Administrative Law Judge (1 copy)

10 Hearing Division, Arizona Corporation Commission, Room 218

11 Arizona Regional Offices

12 400 West Congress

13 Tucson, Arizona 85701-1347

14 Additional Distribution (1 copy each):

15 **Michael W. Patten**, Attorney for Applicant

16 Roshka, DeWulf & Patten, PLC

17 One Arizona Center

18 400 East Van Buren Street, Suite 800

19 Phoenix, Arizona 85004-2262

20 **(without attachments)**

**Dan Podzefsky**, Chief Counsel

Residential Utility Consumer Office (RUCO)

1110 West Washington Street, Ste 220

Phoenix, Arizona 85007-2958

21 Interested Parties (1 copy each) are filed this date by email:

22 Santa Cruz County Board of Supervisors:

23 **John Maynard**, Chairman

24 Santa Cruz County Complex

25 2150 North Congress Drive

26 Nogales, Arizona 85621-1090

City of Nogales

**Jaime Fontes**, City Manager

**Michael Massee**, Deputy City Attorney

Nogales City Hall

777 North Grand Avenue

Nogales, Arizona 85621-2262

## Attachment 1

**Nogales Deputy City Attorney Michael Massee Letter to  
UNS Electric, Inc's., Ms. Michelle Livengood of 24 June 2008**

June 24, 2008

Michelle Livengood  
Regulatory Counsel  
Tucson Electric Power Co.  
One South Church Avenue, Suite 100  
P.O. Box 711  
Tucson, AZ 85702

Re: Settlement Agreement Between City of Nogales and Citizens Utilities Co.

Dear Michelle:

Thank you for emailing me today the Memorandum of Understanding Re Miscellaneous Closing Issues dated August 11, 2003. Unfortunately, this document raises more issues than it resolves.

Pursuant to its terms, this document memorializes certain agreements between UNS Electric, Inc. and Citizen's Communications Company regarding the Asset Purchase Agreement dated October 29, 2002. The Asset Purchase Agreement was prominently mentioned in the Settlement Agreement between ACC Utilities Staff and the parties in Docket Nos. G01032A-02-0598 ("Gas Rate Case"), E-01032C-00-0751 ("PPFAC Case") and E-01933A-02-0914, E-01302C-02-0914, G-01302C-02-0914 ("Joint Application") and the subsequent Opinion and Order entered in these matters (Decision No. 66028). Importantly, neither the Settlement Agreement nor the Opinion and Order reference the Memorandum of Understanding, which appears to be a later document not yet in existence at the time the Settlement Agreement and Decision were entered. Thus, I question whether such a document can be binding on anyone other than the parties thereto in such a highly-regulated and exhaustively litigated environment. (As an aside, the parenthetical assertion made in Schedule 2.3(i) of MOU that there were no issues current with the City's complaint, which it asserts to have been dismissed with prejudice, does not appear to be factually correct. Pursuant to the terms of the City's Settlement Agreement, jurisdiction in the ACC was reserved for enforcement purposes, as certain provisions created long-term obligations. Thus, this self-serving statement does nothing to affect the binding nature of the Settlement Agreement or its express terms).

Moreover, there appears to have been an earlier version of Schedule 2.3(i) that did not include the strikeouts and parenthetical language that appear in the MOU you emailed me. I am enclosing herewith another version of Schedule 2.3(i), which is identified with Bates No. JA/0401-00000896. This document was produced to Marshall Magruder in response to his Second Set of Data Requests in Docket No. E-01032A-99-0401, and was the response of the Joint Applicants to Mr. Magruder's question regarding the transition or changeover plan ensuring all prior commitments of Citizens were addressed. Thus, it appears that at one time UNS Electric did intend to assume Citizens' obligations under the Settlement Agreement with the City, and openly told this to Mr. Magruder. This obviously creates further doubts about what if any legal effect to be given to the MOU you emailed me.

At any rate, I think we can agree that the document trail that I have outlined above is anything but clear as to how Citizens and UNS Electric intended to deal with the continuing obligations created

Exhibit

MM-2

Page 4 of 5 pages

by the Settlement Agreement. In this situation, the terms of the Settlement Agreement should apply, which is that it bound not only Citizens but its "successors and assigns." If UNS Electric or its related entities disagree, then the burden should be on them to show why they should not be bound, and the MOU, either in isolation or in context with the other documents that I mention above, does not appear to carry that burden.

What I am contemplating is proposing to the City Counsel that the City seek to re-open Docket No. E-01032B-98-0621 (its complaint against Citizens) and request either a status conference or an order to show cause hearing, naming both UNS Electric and Citizens Communications as joint respondents. Clearly, one of the two is responsible for complying with the terms of the Settlement Agreement's clause regarding the on-going obligation to fund scholarships or no-interest loans to students in Nogales and Rio Rico. At this point, it would not appear to matter which should be compelled to comply with this term, so long as there is an entity declared to be responsible. This appears to be the best approach to avoid the possibility of inconsistent results should the City pursue either UNS Electric/Unisource or Citizens Communications separately.

If the City elects to pursue this option, it would likely engender some publicity due to the perception that it was adopting an openly adverse position to that of UNS Electric/Unisource with respect to funding student scholarships. This would be unfortunate as it is a truly laudable goal that should not be a point of contention among the parties. Therefore, I look forward to receiving your reply at your earliest opportunity to learn from you where in the above analysis I have erred, or how you propose to resolve this issue amicably. By copy of this letter to Hillary Glassman, Citizens Communication's counsel, I am also requesting a reply from Citizens Communications regarding its position on this issue.

Sincerely yours,

Michael Massee  
Deputy City Attorney

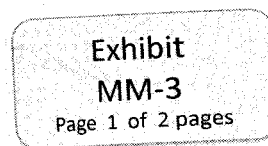
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(enclosures)

cc: Hillary Glassman, Esq.

## Attachment 2

## Review Of Recommended Corrections To Procedural Order Of 2 September 2009

1. On page 1, line 22, after Settlement add, "Agreement and Plan of Action"
2. On page 1, line 22, change "City of Nogales" to "Commission Staff"
3. On page 1, line 23, change "scholarships" to "student loans"
4. On page 1, line 23, delete "the Plan of Action adopted as a result of"
5. On page 1, line 24, between "of customers" insert "all"
6. On page 1, line 25, after "support" add "during an electrical outage" before the period.
7. On page 2, line 11, after 1999 before the comma, insert "and as indicated in the Commission Order No. 70360"
8. On page 2, line 15, change "scholarships" to "student loans"
9. On page 2, line 24, after "Magruder" change "did not disagree with the recommendation" to "agreed to support any recommendation that complied with the Settlement Agreement."
10. On page 2, line 28, add new sentence, "Mr. Magruder stated that the Commission Order No. 70360 on pages 58-59 and 88 did not limit notification to any special rate category but was to be applicable for all ratepayers and customers."
11. On page 3, line 8, add a new sentence to read "However, Mr. Magruder believes this issue has been heard and that only implementation of a process that allows customers to signup for such notifications and that the county/city law enforcement organizations enter into an agreement with the company on information sharing to make this a reality."



**VIA UPS OVERNIGHT MAIL**

July 31, 2008

Michelle Livengood  
Regulatory Counsel  
Tucson Electric Power Co.  
One South Church Avenue, Suite 100  
P.O. Box 711  
Tucson, Arizona 85702

Michael Massee  
Deputy City Attorney  
City of Nogales  
777 North Grand Avenue  
Nogales, Arizona 85621

**RE: Settlement Agreement between the City of Nogales and Citizens Utilities Company**

Dear Ms. Livengood and Mr. Massee:

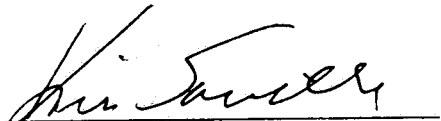
I am Associate General Counsel for Citizens Communications Company and am in receipt of the attached letter from Michael J. Massee dated June 24, 2008. Based on this correspondence it is my understanding that the City of Nogales is attempting to resolve the question of whether UniSource has the ongoing obligation to provide the scholarship fund pursuant to Section 9 ("Educational Support") of the 1999 Revised Settlement Agreement executed by Citizens and the City. I recently had a brief conversation with Mr. Massee and it is my understanding that UniSource has explained that the obligation to fund the scholarships was retained by Citizens and that UniSource is not responsible for the scholarship funding.

I have attached the Arizona Commission Order and the Revised Settlement Agreement that was executed by Citizens and the City in 1997. I have also attached relevant pages of the Asset Purchase Agreement and Memorandum of Understanding associated with the sale of Citizens' Arizona electric operations to UniSource in 2002.

First the Arizona Commission "Order" was listed in Schedule 2.3(i) as an Assumed Actions & Proceeding at the time the original Asset Purchase Agreement was signed in October 2002. At the time the deal closed, however, in August 2003, the Arizona Commission Order was stricken from Schedule 2.3(i) with a note that there were no issues open regarding this matter because the complaint had been settled and dismissed. However, this Schedule 2.3(i) was only intended to cover pending actions and proceedings at the time of closing in August 2003.

More importantly, the Revised Settlement Agreement with the City of Nogales was listed in Schedule 4.11(a) - Certain Seller Material Agreements - in the original Asset Purchase Agreement and the Memorandum of Understanding signed at the closing. Schedule 4.11(a) lists each "Assigned Agreement" to be assigned and assumed by UniSource. Under Section 2.3(a) of the Asset Purchase Agreement, UniSource assumed "all liabilities of [Citizens] arising on or after the Closing Date under the Assigned Agreements." The Revised Settlement Agreement is an Assigned Agreement and Assumed Liability which UniSource assumed and is required to fulfill. Accordingly, it is Citizens' position that UniSource assumed responsibility for the annual scholarship funding under the Revised Settlement Agreement after the closing on August 11, 2003.

If you have questions or would like to discuss this further, please do not hesitate to contact me.



Kevin Saville  
Associate General Counsel  
2378 Wilshire Blvd.  
Mound, MN 55364  
(952) 491-5564 Telephone  
(952) 491-5577 Facsimile  
ksaville@czn.com

Enclosures

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2009 JUL 13 P 1:40

COMMISSIONERS

KRISTIN K. MAYES - CHAIRMAN  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

AZ CORP COMMISSION  
DOCKET CONTROL

Exhibit  
MM-4  
Page 1 of 2 pages

IN THE MATTER OF THE FORMAL ) DOCKET NO. E-04204A-08-0589  
COMPLAINT OF MARSHALL MAGRUDER )  
FILED WITH THE ARIZONA CORPORATION ) UNS ELECTRIC, INC.  
COMMISSION ON DECEMBER 5, 2008. ) STATUS UPDATE  
)  
)

UNS Electric, Inc. ("UNS Electric" or the "Company"), through undersigned counsel, hereby provides the Arizona Corporation Commission ("Commission") and Administrative Law Judge Rodda with a status update regarding a potential scholarship program in Santa Cruz County. UNS Electric provides the following information:

**I. STATUS UPDATE.**


As stated in previous filings, UNS Electric has been meeting with City of Nogales and Santa Cruz County school district officials for the purpose of developing a beneficial and meaningful new scholarship program for Santa Cruz County graduating high school seniors. To date, an agreement has not been reached on the specifics of a new scholarship program.

**II. SCHOLARSHIPS AWARDED.**

Although no formal scholarship agreement is currently in place, UNS Electric voluntarily chose to award Company scholarships this year. In May of 2009, UNS Electric awarded four scholarships, in the amount of \$2,000 each, to two graduating seniors from Nogales High School and two graduating seniors from Rio Rico High School. Scholarship recipients were selected by the Nogales Educational Foundation and Rio Rico High School.

Arizona Corporation Commission  
DOCKETED

JUL 13 2009

DOCKETED BY 

The decision to award future scholarships will be made on a year-to-year basis. UNS Electric is still interested in developing a scholarship program that is beneficial for graduating high school seniors in Santa Cruz County.

RESPECTFULLY SUBMITTED this 13<sup>th</sup> day of July 2009.

UNS ELECTRIC, INC.

By Michelle Livengood  
Michelle Livengood  
UniSource Energy Services  
One South Church Avenue  
Tucson, Arizona 85702

and

Michael W. Patten  
ROSHKA DEWULF & PATTEN, PLC.  
One Arizona Center  
400 East Van Buren Street, Suite 800  
Phoenix, Arizona 85004

Attorneys for UNS Electric, Inc.

Original and thirteen copies of the foregoing  
filed this 13<sup>th</sup> day of July 2009, with:

Docket Control  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Copies of the foregoing  
mailed this 13<sup>th</sup> day of July 2009, to:

Marshall Magruder  
P. O. Box 1267  
Tubac, Arizona 85646



**Appendix E****Reliability Improvements Agreed to by Citizens in 1999  
and Subsequent Compliance**

The series of hearings, ACC Orders, plans and Settlement Agreements in the 1998 and adjudicated in 1999 in ACC Order No. 62011, are discussed in this Appendix, in terms of the agreement and know results, as of this filing. There are the following "agreements" from these series of hearings:

- a. City of Nogales – Citizens Settlement Agreement, as revised on 1 June 1999.
- b. ACC Decision 61383 (not held) required Citizens file an Analysis of Alternatives and Plan of Action to rectify the service problems in Santa Cruz.
- b. Citizens "Transmission Alternatives and Plan of Action" of 15 April 1999
- c. Citizens "Supplement to Santa Cruz Electric Division Transmission Alternatives and Plan of Action" of 7 May 1999 filed to comply with ACC Decision 61383
- d. ACC Staff – Citizens Settlement Agreement of August 1999
- e. ACC Order No. 62011 of 2 November 1999.

This appendix discusses each of these Citizens agreements in terms of its requirements and known subsequence compliance. In general, the term "Citizens" is used to describe the utility that services the Santa Cruz area, and in all cases, this also includes its successor(s) with UNS Electric, Inc., being the present utility servicing this area.

**E.1 City of Nogales - Citizens Settlement Agreement.**

This revised Settlement Agreement is filed under Docket No. E-01032B-98-0621, as Exhibit A to ACC Decision 61793, "Revised Settlement Agreement Between City of Nogales, Arizona, and Citizens Utilities Company"<sup>101</sup> resolved the issues rose under the prior Complaint by the City of Nogales against Citizens. The Settlement Agreement provided compensation to the City and its customers for past damages by:

- a. Funding direct payments of \$15.00 to all customers in Santa Cruz County; [completed in summer 1999]
- b. Providing a neutral claims resolution procedure for all customers in Santa Cruz County; [completed by the fall of 1999]
- c. Funding low income relief; [completed by August 1999]
- d. Funding Santa Cruz County economic-development efforts; [see discussion below]
- e. Funding four-year, interest free, loans for Santa Cruz high school graduates that will be forgiven if the student return to live and work in the County; [see discussion below]
- f. To improve future electric service and improve community relations, Citizens and the City will
  1. Create a Citizens Advisory Council; [see discussion below]
  2. Collaborate to determine the order in which circuits are energized in the event of future transmission-related outages; [see discussion below]

<sup>101</sup> Hereafter, the "Citizens-City of Nogales Settlement Agreement" which was approved in ACC Decision No. 61793 of 29 June 1999 for Docket No. E-01032B-98-0621 without changes to this settlement agreement which also "ordered that Citizens Utilities Company shall provide a planned service date and required a cost benefit analysis for the system components of a second transmission line be included in its Plan of Action" at page 4, at 11 to 14.

Exhibit

MM-5

Page 2 of 12 pages

- 3 3. Develop a mutually acceptable Service Upgrade Plan for submission to the Commission; [see discussion below]
- 4 4. Negotiate a mutually acceptable 25-year franchise for Citizens. [See discussion below]
- 5 g. The City will dismiss its complaint in this docket with prejudice.

6 **E.1.1 Compliance with "Santa Cruz County Economic Development Efforts"**

7 In addition to provision of "seed" money, Citizens was to work with the Citizens Advisory Council and  
8 an Economic Development Roundtable to "develop new-business incentive-rate tariffs intended to  
9 attack new business to Santa Cruz County" and to "evaluate appropriate changes to existing  
10 commercial and industrial tariffs" and to file resulting changes with the ACC for approval.

11 This has NOT been accomplished, as the existing business electric rates are higher than residential  
12 rates, which discourages business. This was a major objection I had in my filings in the Purchase  
13 Power and Fuel Adjustment Clause Docket No. E-01032C-00-0751. Further, Mohave County  
14 Economic Development personnel also objected to these high business and commercial tariffs during  
15 these hearings.<sup>102</sup>

16 **E.1.2 Compliance with "Funding Four-Year Scholarships"**

17 A review of the scholarships sections in recent *Nogales International* newspapers has not listed any  
18 scholarships from UniSource, UES or UNS Electric, Inc. This Settlement Agreement, in Article 9,  
19 stated "Each year, the program will select..."<sup>103</sup> which is clear this is an annual scholarship program.  
20 This has NOT been continued.

21 **E.1.3 Compliance with "Create a Citizens Advisory Council"**

22 This was initially established to "discuss electric and gas service issues, upcoming Commission filings  
23 and other topics of mutual interest such as electric deregulation and demand-side management."<sup>104</sup>  
24 The last meeting of the CAC was in September 2000, just after TEP and Citizens agreed to work  
25 together on the 345 kV transmission project. This has NOT been continued, thus one of the main  
26 issues in opening this docket, "public participation" was unilaterally stopped, without concurrence of  
27 the ACC, by the utility.<sup>105</sup>

28 <sup>102</sup> See Docket No. E-01032C-00-0751, In the Matter of the Application of the Arizona Electric Division of  
29 Citizens Communications Company to Change the Current Purchased Power and Fuel Adjustment Clause  
30 Rate, to Establish a new Purchased Power and Fuel Adjustment Clause Bank, and to Request Approval  
31 Guidelines for the Recovery and Costs Incurred in Connection with Energy Risk Management Initiatives,  
32 the "Marshall Magruder Brief," of 15 May 2003, page 3 at 27 to 30, page 7 at 9 to 13, et al. It should be  
33 noted, the above docket was merged with two other docket Nos. G-01032A-00-0598 and E-01933A-02-  
34 0914.

35 <sup>103</sup> See City of Nogales-Citizens Settlement Agreement, p. 7, Article 9 (Educational Support).

<sup>104</sup> *Ibid.* p. 4, Article 3 (Citizens Advisory Council)

<sup>105</sup> Citizens in a Docket No E-01032B-98-0621 filing "Settlement Agreement Between the City of Nogales,  
Arizona, and Citizens Utilities Company" of 12 February 1999, stated "The CAC will meet regularly (as  
agreed by its members) to discuss electric and gas service issues, upcoming Commission filings and other  
topics of mutual interest such as electric deregulation and demand-side management. The CAC will also  
assist Citizens by evaluating alternatives for long-term electric reliability in Santa Cruz County, such as a  
second transmission line, and recommend a preferred alternative to Citizens and the Commission" at page  
3, paragraph 3. The actions indicated by the last sentence were never accomplished by the CAC.

**E.1.4 Compliance with "Determine the Order of Circuits after Transmission Outages"**

This task was established to promote collaboration by Citizens with the City to determine the initial order for circuits to be re-energized in event of an outage due to WAPA or the 115 kV transmission line. The local turbines would be used for this purpose. This appears to have been accomplished by changes in tie lines so that all emergency circuits energized first. This task also states "in collaboration with the CAC, Citizens will evaluate whether to keep generation in spinning reserve during inclement weather."<sup>106</sup> As there have been no CAC meetings since September 2000, unilaterally, UES requested and obtained ACC approval not to have spinning reserve (turbines in standby) during storms.<sup>107</sup> Thus, collaboration with the CAC on the important issue of having the local turbines in "standby" or spinning reserves was not complied as agreed.

**E.1.5 Compliance with "Develop a Mutually Acceptable Service Upgrade Plan"**

This task was for Citizens to file a Service Upgrade Plan for comments by both the City and the Residential Utility Consumers Office (RUCO) including Citizens funding RUCO for this task. This plan was filed and incorporated into the ACC Staff Settlement Agreement as approved by ACC Decision No. 62011 on 2 November 1999 as discussed in paragraph E.5 below. It should be noted in the subsequent hearings and filings before ACC Order No. 62011 Upgrade Plan was developed and approved. Unfortunately, the stated collaboration with RUCO was not accomplished in the development of this plan.

**E.1.6 Compliance with a "Mutually Acceptable Franchise Agreement"**

This was not accomplished by Citizens but was added as a condition under the UniSource Acquisition of Citizens Settlement Agreement.<sup>108</sup> This Franchise Agreement was finally approved in September 2004.<sup>109</sup>

**E.2 Citizens "Transmission Alternatives and Plan of Action"**

This Plan of Action, dated 15 April 1999, was filed to comply with ACC Decision 61383. It was developed using two consultants, Power Engineers and Dames & More. They produced an overall plan for the development of the second transmission line. In general, this detailed plan, schedule and tasks laid out the process for Citizens to install a second 115 kV transmission line from four different substations to the Valencia Substation in Nogales.

**E.3 Citizens "Supplement to Santa Cruz Electric Division Transmission Alternatives and Plan of Action"<sup>110</sup>**

<sup>106</sup> *Ibid.* p. 4, Article 4 (Back-up Generation).

<sup>107</sup> See ACC Order No. 67151 of 3 August 2004 which also waived the \$30,000 penalty.

<sup>108</sup> In Docket Nos. E-01032C-00-0751, G-01032A-00-0598, E-01933A-02-0914, E-01032C-02-0914 and G-01032A-02-0914, the resultant joint ACC Staff-TEP-Citizens Settlement Agreement, at pages 7 to 8, paragraphs 8 and 9, required that all franchise agreements be provided to the Commission within 365 days of closing, which occurred on 11 February 2003. Thus, based on the following footnote, this franchise was approved more than 365 days later.

<sup>109</sup> The 2 November 2004 election, the 55.6% of City of Nogales voters voted to approve the UNSE franchise and 57.19% voted to approve the UNSG franchise. These are not exceptionally large majorities.

<sup>110</sup> I have an open Data Request with the ACC Staff to verify compliance with items listed in this section. Some of the major items have not been started or are partially complete as of the date of this Testimony, in

The Citizens Supplement filed to comply with ACC Order No. 61383.<sup>111</sup>

The Supplement<sup>112</sup> contains many proposed improvements that impact all parts of the Santa Cruz capabilities. These included the following:

### E.3.1 Compliance with "the Second Transmission Line"

- a. Proposed Deadline for Implementation of the second transmission line. The earliest deadline indicated was February 2002; however, an in-service date of 2003 was indicated.<sup>113</sup>
- b. Cost-Benefit Analysis. A detailed Cost-Benefit Analysis was completed and filed by Citizens subsequently. In this Supplement, the following preliminary cost estimates were provided for the four potential interconnections and routes shown in Table E.3-1 below:

**Table E.3-1 Interconnection Alternatives Considered by Citizens and Cost Estimates.**  
This Citizens assessment provided four 115 kV alternatives for the Second Transmission Line to the Nogales Valencia Substation.

Interconnection With	From Substation	To Substation	Initial Cost Estimates	Cost in Supplement
AEPCO	Bicknell	Valencia	\$ 10.6 million	\$ 21.0 million
AEPCO	Sierra Vista	Valencia	\$11.6 million	\$ 20.9 million
AEPCO	Pantano	Valencia	\$14.0 million	\$ 23.0 million
TEP	Vail	Valencia	\$16.25 million	\$ 27.0 million

- c. Alternatives. The four 115 kV transmission line routes above were identified, with the Bicknell being the preferred with respect to system performance and cost and "this interconnection is the best technically, is the lowest capital cost, and the route generally crosses terrain that has other linear developments, such as natural gas pipe line and interstate highway".<sup>114</sup>
- d. Power Flow Studies. Preliminary power flow studies have been completed by AEPCO that support the Bicknell alternative. Further, a "second 115 kV line would need to operate in

particular many of the underground cable replacements. The forthcoming Rebuttal will contain these results.

<sup>111</sup> This "supplement" is also found in TEP and UES filing in this Docket No. E-01032A-99-0401, "Notice of Filing Response to Commission Questions and Updated Outage Response Plan for Santa Cruz County" filed on 9 February 2004, in the first exhibit (sic), filed by Citizens under Docket No. E-01032A-98-0611, et al, "Supplement to Santa Cruz Electric Division Transmission Alternatives and Plan of Action," filed on 7 May 1999. In addition, on 15 April 1999, Citizens also filed the "Transmission Alternatives and Plan of Action" (written by Citizen's consultants, Power Engineers and Dames & Moore) to which the "supplement" amplified.

<sup>112</sup> This filing with for the Citizens "Supplemental Plan" does not have numbered pages. The Adobe PDF version, filed in TEP's 9 February 2004 in this Docket, has page numbers. These pages numbers will be used for reference purposes and referred to as Supplemental Plan, PDF page "X".

<sup>113</sup> In Supplemental Plan, PDF pages 24, 25, and 36 to 39. On PDF page 39, the Citizens Data Response to Staff's First Set of Data Requests, 28 January 1999, Date Request No. RF-2, the ACC Staff asked how was the year 2003 selected; the earliest possible in-service date and what could prevent Citizens from installing this line prior to 2003. In ACC Staff Supplemental Testimony of 16 July 1999, the "Staff is concerned about schedule creep ... this seems to indicate that Citizens has just recently become serious about planning for and constructing a second transmission line, despite the report of September 1971 [which indicated the reliability need]. Staff believes the delay in starting the process and filling the associated reports has been excessive and unreasonable." At page 8 lines 7 to 14.

<sup>114</sup> In Supplemental Plan, PDF page 25.

parallel with WAPA's transmission system."<sup>115</sup> It should be noted that TEP had not performed any power flow studies for its "Vail" interconnection.<sup>116</sup>

- e. Environmental. Of these four alternatives, the Bicknell and Vail alternatives may present fewer environmental permitting problems; however, the Vail alternative would transverse more highly developed areas. The other two alternatives would follow AZ Highway 82 that is more environmentally sensitive.<sup>117</sup>
- f. Transmission Service Costs. The "addition of a second transmission line interconnected to a system other than WAPA will require an interconnection agreement and potentially, a transmission service contract with the transmission owner. Any transmission service costs are expected to be in addition to those presently incurred for use of the WAPA's system."<sup>118</sup> Thus, any other system, than WAPA will have higher costs for Citizens customers.
- g. Selection of the Preferred Plan. Citizens is working with Power Engineers and Dames & Moore, consulting firms, which have developed the work plan, environmental characteristics with each alternative, outline the required steps, projected schedule for permitting, design, and construction of the second transmission line. This plan is to be used for "planning with local, state, and federal agencies to develop the information necessary for applying for a Certificate of Environmental Compatibility" with the Line Siting Committee These are contained in the Transmission Alternatives and Plan of Action Report.<sup>119</sup>

### E.3.2 Other Planned Improvements NOT Dependent On The Second Transmission Line.

- a. Replacing poles. A plan is presented to replace 3,060 poles which "have reached the end of their life cycle"<sup>120</sup> during 1999 costing \$4,320,000, in 2000 for \$4,285,000 for \$1,190,000, in 2001, 2002, and 2003. There are 20 different pole replacement projects listed. A "progress to date" shows that 634 poles had been replaced for the estimated 616 as of this report. Table E.3.2-1 below shows the plan for replacing these above ground poles.<sup>121</sup>

**Table E.3.2-1 Above Ground Replacement Pole Plan.** *It should be noted that the 1999 estimates and "to date" actual installations do not meet the planned number of replacements.*

ID	Pole Replacement Project	Total No of Poles	1999 Est. No.	Poles to date	1999 Plan (\$)	2000 (\$)	2001 (\$)	2002 (\$)	2003 (\$)
1	Nogales Wash area	75	75	26	300,000	0	0	0	0
2	Nogales West north area	75	15	28	90,000	30,000	30,000	30,000	30,000

<sup>115</sup> *Ibid.* PDF pages 29 and 37. This point is very important. Almost all power consumed by Citizens is "firm" delivery power, which means the supplier MUST always provide this power. In general, when the same supplier provides transmission in "parallel" for two of its interconnections, then the user will only have to pay for electricity that is consumed and transmission charges for what is transmitted, e.g., pays for power only once. When a second, independent provider transmits power, then this "second" power supplier must also be paid, even if such power is NOT consumed, e.g., pays for power twice. Thus, one supplier is less costly for ratepayers when compared to two suppliers. Note, WAPA is the transmission supplier for both Citizens and AEPCO. Thus, as early as January 1999, this principle was known and understood by Citizens.

<sup>116</sup> In Supplemental, PDF page 37, "TEP has not completed power flow cases for any potential interconnection."

<sup>117</sup> *Ibid.* PDF page 30.

<sup>118</sup> *Ibid.*

<sup>119</sup> *Ibid.* This report was filed with the Commission on 15 April 1999.

<sup>120</sup> *Ibid.* PDF page 52.

<sup>121</sup> In Supplemental, PDF pages 26, 41, 43, 45, and 52.

**Table E.3.2-1 Above Ground Replacement Pole Plan.** It should be noted that the 1999 estimates and "to date" actual installations do not meet the planned number of replacements.

ID	Pole Replacement Project	Total No of Poles	1999 Est. No.	Poles to date	1999 Plan (\$)	2000 (\$)	2001 (\$)	2002 (\$)	2003 (\$)
3	Reconductor Mariposa Industrial Park	75	1	1	90,000	75,000	0	0	0
4	Downtown Southeast	300	60	74	360,000	120,000	120,000	120,000	120,000
5	Downtown Northwest	300	60	115	360,000	120,000	120,000	120,000	120,000
6	Downtown Southwest	500	100	91	474,000	200,000	200,000	200,000	200,000
7	Downtown Northeast	300	60	20	360,000	120,000	120,000	120,000	120,000
8	Beatus Estates	150	0	0	180,000	60,000	60,000	60,000	60,000
9	Valle Verde	150	30	106	180,000	60,000	60,000	60,000	60,000
10	Chula Vista	50	2	0	60,000	20,000	20,000	20,000	20,000
11	Activate Circuit 6242	100	0	0	180,000	60,000	60,000	60,000	60,000
12	Circuit 6241	50	10	0	60,000	20,000	20,000	20,000	20,000
13	Meadow Hills North	75	15	0	90,000	30,000	30,000	30,000	30,000
14	Meadow Hills South	75	15	0	90,000	30,000	30,000	30,000	30,000
15	Transmission Line	20	2	0	320,000	0	0	0	0
16	Highway 62	250	60	148	275,000	120,000	120,000	120,000	120,000
17	Old Tucson Road	10	10	9	25,000	0	0	0	0
18	Rio Rico Highway Crossing	0	0	0	126,000	0	0	0	0
19	Rio Rico Industrial Park	25	1	16	100,000	0	0	0	0
20	Flux Canyon area	500	100	0	600,000	200,000	200,000	200,000	200,000
Totals		3,080	616	634	\$4,320,000	\$1,265,000	\$1,190,000	\$1,190,000	\$1,190,000

- b. Replacing underground cable. A plan is presented to replace 159,388 total feet of underground cable during 1999 costing \$1,310,104, in 2000, 2001, 2002 and 2003 for \$1,275,104, in 2001, 2002, and 2003. There are 12 different underground cable replacement projects listed with replacements required in Rio Rico and Tubac having the highest priority. A "progress to date" shows that 25,741 actual feet of cable had been replaced for the 32,753 feet estimated as of this report. Table E.3.2-2 below shows the plan for replacing these above underground cables that Citizens indicated were low reliability due to directly buried cable and for replacing old cable with high failure rates.<sup>122</sup> It should be noted that many of the cable replacements in the progress to date column were significantly over-ran the estimated number of feet versus actual number of feet.

**Table E.3.2-2 Below Ground Replacement Cable Plan.** It should be noted that the 1999 estimates and "to date" actual installations do not meet the planned number of replacements.

ID	Underground Cable Replacement Project	Total Feet	1999 Est. Ft.	Ft. to date	1999 Plan (\$)	2000 (\$)	2001 (\$)	2002 (\$)	2003 (\$)
1	Mariposa Manor	7,677	1,535	0	61,416	61,416	61,416	61,416	61,416
2	Monte Carlo	12,040	2,408	2,454	96,320	96,320	96,320	96,320	96,320
3	Rio Rico Urban 3	28,160	5,632	14,157	225,280	225,280	225,280	225,280	225,280
4	Preston Trailer Park	3,633	727	0	29,064	29,064	29,064	29,064	20,064
5	Tubac Country Club	6,900	1,380	0	55,200	55,200	55,200	55,200	55,200
6	Tubac Valley County Club	4,300	860	7,290	34,400	34,400	34,400	34,400	34,400

<sup>122</sup> Ibid, PDF pages 26, 42, 43, 45, 52 and 53.

**Table E.3.2-2 Below Ground Replacement Cable Plan.** *It should be noted that the 1999 estimates and "to date" actual installations do not meet the planned number of replacements.*

ID	Underground Cable Replacement Project	Total Feet	1999 Est. Ft.	Ft. to date	1999 Plan (\$)	2000 (\$)	2001 (\$)	2002 (\$)	2003 (\$)
7	Palo Parado	15,530	2,706	0	108,240	108,240	108,240	108,240	108,240
8	Empty Saddle Estates	8,180	1,636	0	65,440	65,440	65,440	65,440	65,440
9	Mt. Hopkins	52,800	11,435	0	457,000	422,400	422,400	422,400	422,400
10	Meadow Hills	15,840	3,168	0	126,720	126,720	126,720	126,720	126,720
11	Canyon Del Oro/Vista Del Cielo	4,500	900	1,840	36,000	36,000	36,000	36,000	36,000
12	Rio Rico Resort	1,828	366	0	14,624	14,624	14,624	14,624	14,624
Totals		161,388	32,753	25,741	\$1,310,104	\$1,275,104	\$1,275,104	\$1,275,104	\$1,275,104

### E.3.3 Power Supply Improvements.

These projects include the following:

- Generator synchronization equipment including a synchronization-check relay were added to the 115 kV breakers to automatically close and re-establish the tie to the WAPA system when the load is being carried in Nogales. The estimated cost was \$100,000. Installed in January 1999.<sup>123</sup>
- Nogales Switching Station. This is a new three ring-bus breaker 115 kV switch at the Nogales Tap with the WAPA Del Bac and Apache (via Adams) Substations. This \$2.1 million switch was completed in the summer of 1999. The benefit of this improvement is that customers will "no longer be interrupted every time WAPA's transmission line has an interruption and reduces impacts of transient or permanent faults on WAPA's line or inside the switching station to interrupt customers."<sup>124</sup>

### E.3.4 Valencia Substation Improvements.

- Site Structure.
- 115 kV Breakers were completed.
- Voltage Regulation was completed.
- Protective Relaying and Controls were completed.
- Breaker Controls were completed.

### E.3.5 Sonoita Substation Improvements

- Voltage Regulation was completed.
- Controls and Substation Building was completed, but later moved to Tucson.
- Installation of 115 kV Sectionalization Equipment was completed.

<sup>123</sup> *Ibid.* PDF pages 28 and 44.

<sup>124</sup> *Ibid.* PDF pages 28, 29, 34 and 44.

**E.3.6 Kantor Substation Improvements**

- a. Installation of 115 kV Sectionalization Equipment was completed.

**E.3.7 WAPA Nogales Tap Upgrades**

- a. System Synchronization Equipment was completed.
- b. Nogales Tap Switching Station was completed.

**E.3.8 Distribution Circuit Improvements**

- a. Overhead Circuits detailed completion status remains unknown (see E.3.2 above and Table E.3.2-1)
- b. Underground Circuits have not been completed (see E.3.2 above and Table E.3.2-2)

**E.3.9 Generation System Improvements**

- a. General Electric System Study. General Electric was contracted to inspect, test and calibrate the generation protection and control systems. This was accomplished.<sup>125</sup>
- b. Voltage Regulator Replacement completion status is unknown.
- c. DC Power System Improvements was completed with a redundant battery system.
- d. Air Blast Circuit Breaker Replacement was completed.
- e. Starting Ratchet Upgrade completion status is unknown.
- f. Protective Relaying Improvement is very important and its status is unknown.

**E.3.10 SCADA System Improvements**

- a. Operator Station Installation at Valencia Generation Station and now moved to Tucson
- b. Arizona Dispatch Center has been moved several times since.

**E.3.11 Communications Equipment Improvements**

- a. Lucent System Upgrade was completed.
- b. After Hours Answering System was completed with a tape recorder.
- c. Remote Outage Monitoring System was completed then required major modification to be compatible with TEP's equivalent system. Latest completion status is unknown.

**E.3.12 Gantt Chart.**

<sup>125</sup> A copy of this study was provided in response to Data Request MM-329.c, "Test Report – Dynamic Behavior and Data for Dynamic Simulation," for Citizens generation units, by J. Undrill, 28 July 1999.



1 This plan of action schedule laid out in this agreement was not met. This schedule was for  
2 the Citizens 115 kV alternatives, which was laid aside when TEP became responsible for the  
3 second transmission line project. The Citizens schedule was questioned as not attainable as  
4 early as March 1999 by the US Forest Service.

5 See para E.5.3 for a discussion of the EIS schedule used in the Line Siting hearings.<sup>126</sup>  
6 Further, correspondence with the US National Forest Service in 1999 indicated that schedule  
7 was unrealistic and could not be met. A series of letter between Citizens and the Forest  
8 Service are summarized in Appendix B, in chronological order along with other events.

#### 9 **E.4 ACC Staff – Citizens Settlement Agreement.**

10 The Settlement Agreement contained the following commitments by Citizens and its  
11 successor, now UNS Electric.

- 12 a. Citizens "Plan of Action" dated April 15, 1999 and updated on May 7, 1999 and July  
13 13, 1999 to address service quality issues in ACC Decisions No. 61383 and 61793.  
(SA at 1/17-18).
- 14 b. The Settlement Agreement requires Citizens to construct a second transmission line.  
(SA at 1/15-16)
- 15 c. The Settlement Agreement states Citizens "will endeavor to place the second  
16 transmission line in service by four years after the date of a Commission Order  
17 approving this Settlement Agreement." That date would be November 2, 2003. (SA at  
18 1/27-29)
- 19 d. The Settlement Agreement states "If an Environmental Impact Statement is not  
20 needed, Citizens [UNS Electricity] will endeavor to achieve an in-service date of 39  
21 months after the date of a Commission Order approving this Settlement Agreement."  
22 That is an in-service date of February 2, 2003. (SA at 29/2 to 2/1-2)
- 23 e. UNS Electricity is required to "fulfill Citizens' obligations for the second transmission  
24 line as a condition of the Commission's approval of the sale." (SA at 3/5-8)
- 25 f. UNS Electricity was ordered "proceed with planning, permitting, and constructing a  
26 second transmission line to serve its Santa Cruz Electric Division Customers, subject  
27 to the siting process and schedule that Citizens filed on July 13<sup>th</sup>, 1999. Presently the  
28 preferred alternative is the Bicknell-Valencia route, but the parties recognize that  
29 completion of transmission studies and environmental approvals may identify another  
30 route as the route to be constructed." (SA at 1/20-25)
- 31 g. The Settlement Agreement has a "Delay Penalties" clause which reads as follows:

#### 32 **"4. Delay Penalties.**

- 33 a. If the second transmission line is not placed in service by December 31, 2003, then  
34 Citizens will owe a penalty of \$30,000 per month for each full month of delay after  
35 December 31, 2003. This penalty represents liquidated damages for Citizens' failure to  
fulfil its obligations under this Agreement and will be for the benefit of Citizens' Arizona  
electric customers. Citizens will compute and owe the penalty no later than 30 days after  
the transmission line's actual in-service date. If the transmission line is not in service by  
December 31, 2003, then on January 31, 2005, Citizens will compute and owe the

<sup>126</sup> This schedule was provided in my filing in this docket on 24 November 2003, as Exhibit B.

accrued penalty for the previous year. Citizens' obligation will then continue in a like manner on each January 31, thereafter, until the transmission line is actually in service. In the year the transmission line is actually placed in service, Citizens will then compute and owe the penalty no later than 30 days after the transmission line's actual in-service date.

- b. No later than each date in the preceding paragraph by which Citizens is to compute and owe a penalty, Citizens will file with the Commission its proposal as to which of Citizens' electric customers will receive the benefit of the penalty amount and how the benefit will be distributed (e.g., bill credit, credit to PPFAC bank balance, refund, or other methodology). The Commission will then determine by Order the appropriate recipients and distribution methodology.
- c. If Citizens believes that circumstances beyond its reasonable control (such as unavoidable delay in obtaining a Certificate of Environmental Compatibility, court injunction, or other good cause) are responsible for the delay, Citizens may apply – no later than December 31, 2003 – with the Commission to delay the December 31, 2003, date or to waive the penalty. If Citizens makes such a filing, Staff and any other, interested party may file a response either supporting, not objecting to, or objecting to Citizens' application. The Commission will then determine the appropriate relief, if any. (SA at 4/3 to 5/4)<sup>127</sup>

#### E.5 ACC Order No. 62011 of 2 November 1999.

This order is summarized in Table E.5-1 with quotes and paragraphs numbers shown. Omitted paragraphs are not relevant any parts of this testimony.

**Table E.5-1 ACC Opinion and Order No. 62011** requires Citizens to provide a second transmission line by December 31, 2003.

Para	Section	Quotes
2	Findings of Fact	Decision No. 61383 (January 29, 1999) directed Citizens to file an analysis of alternatives and Plan of Action to rectify the service problems in the Santa Cruz Electric District, for approval at Open Meeting, and ordered that a hearing be held at Citizens' request.
6	Findings of Fact	Decision No. 61793 (June 29, 1999) dismissed the Complaint, with direction that Citizens would provide a planned service date and cost-benefit analysis for system components of a second transmission line in the Plan of Action to be filed in compliance with Decision 61383.
12	Findings of Fact	On August 9, 1999, The Commission's Utilities Division Staff ("Staff") and Citizens filed a Settlement Agreement regarding Citizens' Plan of Action.
15	Findings of Fact	The Settlement Agreement commits Citizens to a Plan of Action that is in compliance with Decisions Nos. 61383 and 61793 and incorporates Staff recommendations contained in pre-filed testimony for those proceedings. The Settlement Agreement states that the Plan of Action includes Citizens' submittal of April 15, 1999 <sup>128</sup> , as supplemented on May 7, 1999 and July 13, 1999.
16	Findings of Fact	The Settlement Agreement requires Citizens to build a second transmission line to serve its customers in Santa Cruz County by December 31, 2003.

<sup>127</sup> The ACC Staff Direct Testimony of 20 August 1999 stated "The [ACC Staff-Citizens] Agreement also establishes a framework for delay penalties applicable for Citizens failure to perform in accordance with their proposed schedule." Page 2, lines 3 and 4.

<sup>128</sup> See *Santa Cruz Electric Division Transmission Alternatives and Plan of Action*, prepared for Citizens Utilities Company by POWER Engineers and Dames & Moore, of April 1999.

**Table E.5-1 ACC Opinion and Order No. 62011** requires Citizens to provide a second transmission line by December 31, 2003.

Para	Section	Quotes
17	Findings of Fact	Citizens has agreed to file for a Certificate of Compatibility for the new line by November 11, 2000. The scheduled in-service date for the line is accelerated if an Environmental Impact Statement is not required. The Settlement Agreement also establishes a framework for penalties applicable if Citizens fails to perform in accordance with its proposed schedule.
18	Findings of Fact	If Citizens sells or divests its Santa Cruz Electric Division, the Settlement Agreement requires the acquiring entity to fulfill Citizens' obligations for the second transmission line as a condition of the Commission's approval of the sale.
19	Findings of Fact	The Settlement Agreement preserves Staff's right to challenge any capital expenditure Citizens accrues in the course of constructing its Plan of Action for the Santa Cruz Electric Division filed for these proceedings. The Staff has already noted some expenditure concerns in prior testimony.
20	Findings of Fact	The parties agree that a ruling on expenditures should be postponed until Citizens files to recover its investment cost from customers.
1	Conclusion of Law	Citizens is an Arizona public service corporation within the meaning of Article XV, Section 2, of the Arizona Constitution and A.R.S. § 40-246.
3	Conclusion of Law	Citizens' Plan of Action as filed on April 15, 1999, and supplemented on May 7, 1999 and July 13, 1999 complies with Decisions Nos. 61383 and 61793.
4	Conclusion of Law	The Settlement Agreement filed by the parties on August 9, 1999 is in the public interest and will be adopted by the Commission, with the correction as indicated in Findings of Fact No. 21.
	Order	IT IS THEREFORE ORDERED the Settlement Agreement filed on August 9, 1999 by Commission Staff and Citizens Utilities Companies shall be, and is hereby, adopted by the Commission with the correction indicated in Findings of Fact No. 21.
	Order	IT IS FURTHER ORDERED that Citizens Utilities Company is ordered to comply with the requirements of the Settlement Agreement.

### E.5.1 Compliance with ACC Order No. 62011.

The ACC Order No. 62011 contained the following commitments by Citizens and its successor, now UNS Electric.

- a. The scheduled in-service date for the line is to be accelerated if an Environmental Impact Statement is not required." (ACC 62011 at 4-5)
- b. The ACC Order No. 62011 states "The Settlement Agreement requires Citizens to build a second transmission line to serve its customers in Santa Cruz County by December 31, 2003." (ACC 62011 at 3/1-2)
- c. UNS Electricity is required to "fulfill Citizens' obligations for the second transmission line as a condition of the Commission's approval of the sale." (ACC 62011 at 3/8-10)
- d. Citizens filed for an ACC Certificate of Environmental Compatibility (CEC) on 1 March 2001, after receiving a six months extension.

### E.5.2 Compliance with the Joint Application for a CEC<sup>129</sup>.

<sup>129</sup> This is the "Joint Application for a Certificate of Environmental Compatibility: Proposed 345 kV Transmission Line System, Tucson Electric Power Company's Existing South 345 kV Substation to the Proposed Gateway 345 kV Substation with a 115 kV Interconnect to the Citizens Communications

The CEC Application included a complete copy of ACC Opinion and Decision No. 60011 as Exhibit J-4. In the Introduction, it states,

"The primary purpose of the Project for Citizens is to comply with the requirements of Arizona Corporation Commission Decision No. 62011 'To build a second transmission line to serve its customers in Santa Cruz County by December 31, 2003.'"<sup>130</sup>

In addition, this application contains the Project Development Agreement (PDA)<sup>131</sup> that defines the legal, financial, ownership, duties and other responsibilities between TEP and Citizens. See Table E.5-2 below for relevant quotes from this PDA.

**Table E.5-2 Quotes from the Joint Project Development Agreement (PDA).**

Paragraph, Title, page	Quote from the Joint Project PDA
1. Definitions "Citizens Transmission Line" Page 3	"The new 115 kV transmission line to be permitted, designed, constructed by Citizens for delivery of electric power and energy from the Citizens Gateway Substation thereby providing a second transmission line to serve Citizens' service area in Santa Cruz County, Arizona.
1. Definitions "Interim Project" Page 3	"... <b>as a minimum, a project consisting of a 115-kV line necessary to upgrade Citizens' existing system as required by the ACC Order [62011]</b> , together with such additional technical characteristics as TEP may consider necessary or desirable to allow for conversion to the Project."
1. Definitions "Minimum Project" Page 3	"... <b>as a minimum, a project consisting of a 115-kV line necessary to upgrade Citizens' existing system as required by the ACC Order [62011.]</b> "
1. Definitions "Project" Page 4	"A project consisting of <ul style="list-style-type: none"> <li>• A double circuit, 345-kV transmission line designed to run from TEP's South Substation to the TEP's Gateway Substation and;</li> <li>• The TEP Gateway Substation and;</li> <li>• The Citizens Gateway Substation and the Citizens Interconnection and;</li> <li>• An additional interconnection with the CFE transmission system in Sonora, Mexico consisting of a double circuit 345 kV transmission line connecting from the TEP Gateway substation to the CFE system.</li> </ul>
1. Definitions "Uncontrollable Force" Page 3	"Any event beyond the control of the Party unable to perform any of its obligations hereunder including ... and 'Uncontrollable Force' does not include changes in local, state, national, or international general economic conditions. <u>'Uncontrollable Force' also does not include any requirements or restrictions arising from the provisions of the ACC Order [62011].</u> " [Emphasis added]
3. Parties' Responsibilities A. Overall Project Management Page 4	"TEP is responsible for overall Project management, including construction and required regulatory approvals, during the development, design, construction and testing phases."
3. Parties'	<b>The Project Schedule will take into account all target deadlines, imposed by</b>

Company's 115 kV Valencia Substation in Nogales, Arizona with a 345 kV Transmission Line from the Proposed Gateway Substation South to the International Border," ACC Dockets L-00000C-01-011 and L-00000F-01-011, dated 1 March 2001, Case No. 111, hereafter "CEC Application".

<sup>130</sup> CEC Application, page 1, first paragraph.

<sup>131</sup> "Project Development Agreement between Tucson Electric Power Company and Citizens Communications Company," dated as of January 12, 2001, with excerpts in Exhibit A, Table A-2.

Exhibit  
MM-6  
Page 1 of 3 pages

**BEFORE THE ARIZONA CORPORATION COMMISSION**

7008 AUG 25 P 3: 41

## COMMISSIONERS

**MIKE GLEASON - CHAIRMAN**  
**WILLIAM A. MUNDELL**  
**JEFF HATCH-MILLER**  
**KRISTIN K. MAYES**  
**GARY PIERCE**

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

AUG 25 2008

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF  
UNS ELECTRIC, INC. FOR THE  
ESTABLISHMENT OF JUST AND  
REASONABLE RATES AND CHARGES  
DESIGNED TO REALIZE A REASONABLE  
RATE OF RETURN ON THE FAIR VALUE OF  
THE PROPERTIES OF UNS ELECTRIC, INC.  
DEVOTED TO ITS OPERATIONS  
THROUGHOUT THE STATE OF ARIZONA  
AND REQUEST FOR APPROVAL OF  
RELATED FINANCING.

) DOCKET NO. E-04204A-06-0783

**UNS ELECTRIC, INC.'S  
COMPLIANCE FILING  
REGARDING CITIZENS  
UTILITIES' EDUCATIONAL  
ASSISTANCE PROGRAM  
(DECISION NO. 70360)**

UNS Electric, Inc. ("UNS Electric" or the "Company"), through undersigned counsel and pursuant to Decision No. 70360 (May 27, 2008), hereby submits its compliance filing regarding an educational assistance program which was part of the Revised Settlement Agreement between the City of Nogales and Citizens Utilities Company ("Citizens"), dated June 1, 1999 ("1999 Settlement Agreement"). UNS Electric provides the following information:

In order to settle various claims related to Citizen's poor and unreliable provision of electric service in Santa Cruz County, the City of Nogales and Citizens entered into the 1999 Settlement Agreement. The 1999 Settlement Agreement was approved by Decision No. 61793 (June 29, 1999).

The educational assistance program is outlined in Section 9 of the 1999 Settlement Agreement and states that the City of Nogales and Citizens will work together to develop a program to assist worthy Santa Cruz County high school seniors to attend an Arizona college of their choice. Each year, the program was to select one Santa Cruz County senior for a four-year,

Exhibit

MM-6

Page 2 of 3 pages

1 interest free loan to assist with tuition, books, and other miscellaneous college expenses. If,  
2 following graduation, the student returned to Santa Cruz County to live and work, the loan would  
3 be forgiven. Citizens was to contribute \$3,000 per year, per student, toward this program.  
4 Additional contributions were to be solicited from other benefactors by the City of Nogales to  
5 expand the program even further.

6 Upon review of the educational assistance program, UNS Electric realized that the  
7 following deficiencies existed:

- 8
- 9 1. Students were not required to attend Arizona schools;
- 10 2. Students were not required to return to Santa Cruz County to live and work;
- 11 3. Program funding had been inadequate; and
- 12 4. No student had been selected after 2003.

13 UNS Electric representatives met with officials from the City of Nogales on June 19,  
14 2008, and again with City officials, the Santa Cruz Valley Assistant School Superintendent,  
15 community members and Commission Staff on June 20, 2008 to discuss the educational  
16 assistance program. UNS Electric representatives returned to Nogales to meet with City of  
17 Nogales officials and the Superintendent and Assistant Superintendent of the Nogales and Rio  
18 Rico High School Districts, respectively, on August 21, 2008, and to present proposals and  
19 concepts for a new College Assistance Program to be funded by UNS Electric. UNS Electric  
20 requested input on its proposals from the City and school officials to ensure that the program to  
21 be implemented is one that is meaningful and beneficial to the City, the high schools, and most  
22 importantly, the students. UNS Electric is currently awaiting program feedback from the City of  
23 Nogales, and Nogales and Rio Rico High Schools.

**Exhibit MM-7**      UNS Electric New College Scholarship Program

Temporarily not located, will be filed as a late-filed exhibit

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RESPECTFULLY SUBMITTED this 25<sup>th</sup> day of August 2008.

UNS ELECTRIC, INC.

By Michelle Livengood  
Michelle Livengood  
UniSource Energy Services  
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and

Michael W. Patten  
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Attorneys for UNS Electric, Inc.

Original and thirteen copies of the foregoing  
filed this 25<sup>th</sup> day of August 2008, with:

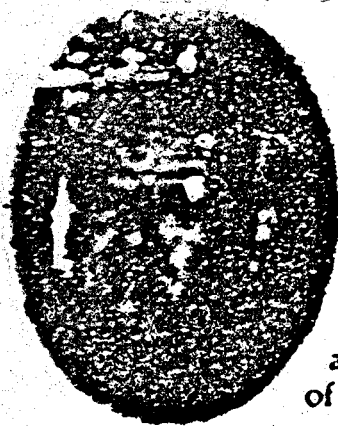
Docket Control  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Copies of the foregoing  
mailed this 25<sup>th</sup> day of August 2008, to:

Compliance  
Director, Utilities Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

By Mary Lippolito





## In Remembrance of Our Friend Jose B. Cañez

Citizens Energy Services would like to acknowledge Jose's many accomplishments and his thirty years of dedicated service to our company.

On May 24, 1939, Jose B. Cañez was born in Imuris Sonora. When he was eight years old, Jose's parents moved Jose, his three brothers and two sisters to Nogales where he attended Lincoln Elementary School. After graduating from Nogales High School in 1961, Jose served four years in the United State Air Force. With a background in diesel mechanics, Jose began working for Citizens Utilities Company in 1968. Jose operated the diesel generators in Citizens power plant.

On May 24, 1969 Jose married Rosa Bella. Jose and Rosa have three daughters, Terry, Ana and Elisa, and one granddaughter, Danitza. Jose believed very strongly in education and worked very hard to give his daughters the opportunity to go college.

Jose demonstrated his strong work ethic both at home in his family life and at work for Citizens. Jose was very safety conscious and served as Chairman of Citizen's Safety Committee. While busy, Jose was never too busy to give of himself to his family, his coworkers and also his community. He will be sorely missed by his family, friends and coworkers.

In appreciation of Jose's dedication and spirit, the new substation in Rio Rico will be named in his honor. Citizens Energy Services is also establishing the Jose Cañez Educational Scholarship. The scholarship fund will award a \$5,000 scholarship to a Nogales High School graduate each year and will be governed by the Nogales School Board.

Citizens Energy Services would like to extend our heartfelt condolences to the family of Jose B. Cañez. He will be missed by all.

**CITIZENS**   
energy services

Marshall Magruder  
PO Box 1367  
Tubac, AZ 85646

Exhibit  
MM-9  
Page 1 of 2 pages

23 July 2009

ACC Docket No. E-04204A-08-0589

**Formal Complaint by Marshall Magruder**

**Status Report**

**1. Student Loans – reviewed AAC Order 61793 (29 June 1999)**

- a. Para 13, "Under the terms of the Revised Settlement Agreement, Citizens will:  
*".... (e) fund four-year, interest free loans for Santa Cruz high school graduates."*
- b. Settlement Agreement, para B  
*"Citizens will be providing compensation to the City and its customers for past damages related to its provision of electric service by: ...  
5. Funding four-year, interest free, loans for Santa Cruz County high school graduates that will be forgiven in the student returns to live and work in the County. (Article 9)."*
- c. Settlement Agreement, Article 9  
*"9. Educational Support  
A skilled, knowledgeable work force will be a key to Santa Cruz County's success in the 21<sup>st</sup> century. Following the Parties' execution of the Revised Settlement Agreement, the City and Citizens will work together to develop an educational assistance program to assist worthy Santa Cruz County high-school seniors attend the Arizona college of their choice. Each year, the program will select one County senior for a four-year, interest free loan to assist with tuition, books, and miscellaneous colleges expenses. If, following graduation, the student returns to Santa Cruz County to live and work, the loan will be forgiven. Citizens will contribute \$3000 per year, per student, toward this program. Other Contributors will be solicited from other benefactors to expand this program even further, such as to cover some portion of room and board, graduate school, or vocational programs."*
- d. Settlement Agreement, Article 10, Miscellaneous:  
*"... Citizens' activities under this Revised Settlement Agreement remain subject to the continuing jurisdiction of the Commission, by virtue of Citizens' status as a public service corporation under Arizona Law. ...  
"This Revised Settlement Agreement binds the successors and assigns of the Parties. The provisions of this Revised Settlement Agreement are not severable."*
- e. Noted that the Citizens Cañez Loan was for \$5,000 per year, announced in January 1999 (before the Settlement Agreement), see attached Citizens announcement.
  - i. Actual Awards (see Magruder Exhibit M-B, page 2 of 2), "late exhibit" filing
    - a. 1999 - \$1,250 Adelina Cripe, McPerson College in Kansas
    - b. 2000 - \$1,250 Javier Favela, Arizona State University
  - ii. Neither was for \$5,000, as stated in the ad.
- f. A Student Loan Announcement needs to be developed that discusses program, requirements, and how to apply, due dates, etc. A Student Loan Application should be developed so students can apply and signature required at award. Checks are sent to school. These two sheets of paper should be developed, used by school counselors, applications collected by due date, awarded as agreed with HS. I

Recommend it awardee returns to work in Santa Cruz County within 2 years of final graduation for two or more years, then loan is forgiven. If not, then starting 2 years after final graduation, repay at \$100/month for 10 years. Company use and received funds for additional loans.

- h. The company's status report of 14 July 2009 shows continual non-compliance with this agreement.
- i. There is NO reason to negotiate a new program, use the agreed one.

## 2. Replacement of Defective Poles and Underground Cables. (ACC Order No. 62011, et al)

- a. Met with the company at the Nogales Office to review the utility poles in the Meadow Hills South and Meadow Hills North subdivisions.
- b. The company had no map or diagram that identified the poles or circuits in this area. When asked for one, none was provided. I found this surprising as whenever I've seen a line crew trouble shooting during an outage, they always had a map (blueprint) of the area.
- c. I also requested a list of the poles in this subdivision and dates of installations. Also, not provided.
- d. I asked how did they depreciate their utility poles if they didn't know where each pole was located and date of installation for depreciation purposes.
- e. We started along Grand Avenue and Country Club, boundary between South/North Meadow Hills.
- f. Around 1130, I got sick and recommend we stop and went home.

Results: (see sheets), only distribution lines counted (no service, telecom, street light)

1970 - 1	1987 - 4	1990 - 1	1994 - 6
1997 - 2	1998 - 3	1999 - 14	2000 - 2
Steel - 5	can't read - 8	Tag Missing - 5	
Total = 46	19 or 46 > 1998 or 41%		

Each Meadow Hills subdivision had 15 of 75 poles reported replaced in 1999 by Citizens.

## 3. Notification of Customers on Life Support during an Outage

- a. Discussed with SCC Sheriff's POC, Lt Rodriquez, and explained the program last week.
- b. He agrees with me and believes the company doesn't understand how easy this is.
- c. A simple "Application for Life Support Persons to be Notified During and Outage" should be mailed at least annually to customers that includes Name, Address, phone number, Type of Life Support Equipment, Normal Battery Normal discharge time, plus usual caveats to ensure no liabilities by either First Responders or utility company, and medical release, and doctor's signature. From this, company puts in order a list, numbers each, and calls Dispatch, during an outage, to execute the program.
- d. A MOU should be developed and signed by SCC Sheriff and UNS Electric, after appropriate internal legal reviews.
- e. ALL customers should be allowed to participate, not just CARES-M.
- f. Simple!

Respectfully submitted,

Marshall Magruder

BEFORE THE ARIZONA CORPORATION COMMISSION  
**DOCKETED**

CARL J. KUNASEK  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
WILLIAM A. MUNDELL  
COMMISSIONER

NOV 02 1999

DOCKETED BY	sd
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IN THE MATTER OF SERVICE QUALITY  
ISSUES, ANALYSIS OF TRANSMISSION  
ALTERNATIVES AND PROPOSED PLAN OF  
ACTION IN THE SANTA CRUZ ELECTRIC  
DIVISION OF CITIZENS UTILITIES COMPANY.

DOCKET NO. E-01032A-99-0401

DECISION NO. 62011

**OPINION AND ORDER**

DATE OF HEARING: September 8, 1999

PLACE OF HEARING: Phoenix, Arizona

PRESIDING OFFICER: Barbara M. Behun

APPEARANCES: Mr. Craig A. Marks, Associate General Counsel, Citizens  
Utilities Company, on behalf of Citizens Utilities Company;

Mr. Walter W. Meek, President, Arizona Utility Investors  
Association; and

Mr. Peter Breen, Staff Attorney, on behalf of the Utilities  
Division of the Arizona Corporation Commission.

**BY THE COMMISSION:**

Having considered the entire record herein and being fully advised in the premises, the  
Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On October 20, 1998, Citizens Utilities Company, its divisions and subsidiaries  
("Citizens") filed with Docket Control of the Commission a notice of intent to form a holding  
company.<sup>1</sup>

2. Decision No. 61383 (January 29, 1999) directed Citizens to file an analysis of  
alternatives and Plan of Action to rectify the service problems in the Santa Cruz Electric Division, for  
approval at Open Meeting, and ordered that a hearing be held regarding Citizens' request.

3. By Procedural Order dated February 24, 1999, the holding company matter was

<sup>1</sup> The application was filed as Docket Nos. E-01032A-98-0611, *et al.*

1 scheduled for hearing on May 10, 1999.

2 4. Upon request by Citizens, the hearing was continued to September 8, 1999.

3 5. On October 27, 1998, the City of Nogales, Arizona filed a Complaint against Citizens  
4 concerning electrical outages in Nogales, Arizona.

5 6. Decision No. 61793 (June 29, 1999) dismissed the Complaint, with direction that  
6 Citizens would provide a planned service date and cost-benefit analysis for system components of a  
7 second transmission line in the Plan of Action to be filed in compliance with Decision No. 61383.

8 7. Intervention has been granted to the Arizona Payphone Association, the Residential  
9 Utility Consumer Office, and the Arizona Utility Investors Association ("AUIA").

10 8. On June 6, 1999, Citizens filed a letter in this docket, indicating that the proposed  
11 separation would not take place.

12 9. On June 16, 1999, Citizens requested clarification of procedural issues, due to the  
13 cancellation of the anticipated separation.

14 10. A Procedural Conference was held on July 12, 1999.

15 11. By Procedural Order dated July 15, 1999, the holding company docket was closed and  
16 this docket opened to resolve the Commission's concerns with respect to Citizens' Santa Cruz  
17 Electric Division. The hearing remained scheduled for September 8, 1999.

18 12. On August 9, 1999, the Commission's Utilities Division Staff ("Staff") and Citizens  
19 filed a Settlement Agreement regarding Citizens' Plan of Action.

20 13. On August 20, 1999, Staff and Citizens filed testimony in support of the Settlement  
21 Agreement.

22 14. A hearing was held on September 8, 1999, before a duly appointed Hearing Officer of  
23 the Commission, at which Citizens and Staff appeared through counsel and presented evidence. The  
24 AUIA appeared through its President, but did not present evidence.

25 15. The Settlement Agreement commits Citizens to a Plan of Action that is in compliance  
26 with Decision Nos. 61383 and 61793 and incorporates Staff recommendations contained in pre-filed  
27 testimony for those proceedings. The Settlement Agreement states that the Plan of Action includes  
28 Citizens' submittal of April 15, 1999, as supplemented on May 7, 1999 and July 13, 1999.



**ORDER**

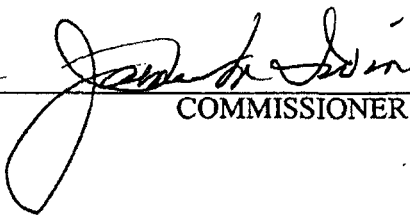
IT IS THEREFORE ORDERED the Settlement Agreement filed on August 9, 1999 by Commission Staff and Citizens Utilities Companies shall be, and is hereby, adopted by the Commission, with the correction indicated in Findings of Fact No. 21.

IT IS FURTHER ORDERED that Citizens Utilities Company is ordered to comply with the requirements of the Settlement Agreement.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

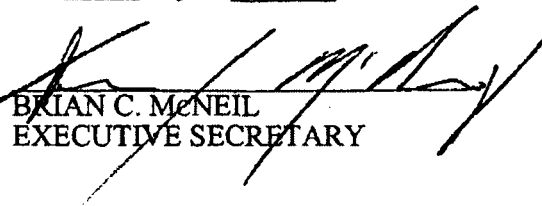
BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

  
CHAIRMAN

  
COMMISSIONER

  
COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 2<sup>nd</sup> day of November 1999.

  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_  
BMB:dap

1 SERVICE LIST FOR: CITIZENS UTILITES DIVISION (SANTA CRUZ  
2 ELECTRIC DIVISION)  
3 DOCKET NO.: E-01032A-99-0401  
4 Raymond Heyman  
5 ROSHKA, HEYMAN & DeWULF  
6 Two Arizona Center  
400 N. 5<sup>th</sup> Street, Suite 1000  
Phoenix, Arizona 85004  
7 Barbara Wytaske, Acting Director  
8 RUCO  
2828 N. Central Ave., Suite 1200  
Phoenix, Arizona 85004  
9  
10 Walter Meek, President  
ARIZONA UTILITIES INVESTORS ASSOCIATION  
2100 N. Central Ave., Suite 210  
11 Phoenix, Arizona 85004  
12 Paul A. Bullis, Chief Counsel  
LEGAL DIVISION  
13 1200 W. Washington Street  
Phoenix, Arizona 85007  
14  
15 Deborah Scott, Director  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION  
16 1200 W. Washington Street  
Phoenix, Arizona 85007  
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ORIGINAL

RECEIVED

BEFORE THE ARIZONA CORPORATION COMMISSION

2008 JUL 28 P 4: 46

**COMMISSIONERS**

MIKE GLEASON - CHAIRMAN  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
KRISTIN K. MAYES  
GARY PIERCE

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

**DOCKETED**

JUL 28 2008

DOCKETED BY

*mn*

IN THE MATTER OF THE APPLICATION OF ) DOCKET NO. E-04204A-06-0783  
UNS ELECTRIC, INC. FOR THE )  
ESTABLISHMENT OF JUST AND )  
REASONABLE RATES AND CHARGES ) **UNS ELECTRIC, INC.'S**  
DESIGNED TO REALIZE A REASONABLE ) **RESPONSE TO MR.**  
RATE OF RETURN ON THE FAIR VALUE OF ) **MAGRUDER'S CONCERNS**  
THE PROPERTIES OF UNS ELECTRIC, INC. )  
DEVOTED TO ITS OPERATIONS )  
THROUGHOUT THE STATE OF ARIZONA )  
AND REQUEST FOR APPROVAL OF )  
RELATED FINANCING. )

UNS Electric, Inc. ("UNS Electric" or the "Company"), through undersigned counsel, hereby responds to Mr. Magruder's concerns regarding certain pole and underground cable replacement projects, in compliance with Decision No. 70360 (May 27, 2008). UNS Electric provides the following information:

**I. BACKGROUND.**

As part of its Settlement Agreement with the City of Nogales (dated June 1, 1999), Citizens Utilities Company ("Citizens"), agreed to develop a Plan of Action to address Santa Cruz County electric service issues (the "Plan"). The Plan was dated April 15, 1999, and was supplemented on May 7, 1999 and July 13, 1999. Decision No. 61793 (June 29, 1999) approved the Settlement Agreement.

UniSource Energy Corporation ("UniSource Energy") acquired Citizens' Arizona gas and electric assets in August of 2003, pursuant to the terms of the Asset Purchase Agreement between UniSource Energy and Citizens (dated October 29, 2002). When UNS Electric Inc. ("UNS Electric") began operating the former Citizens' system, UNS Electric reviewed

1 information provided by Citizens; only one underground cable replacement project identified in  
2 the Plan, Mt. Hopkins, had not been completed. After the acquisition, UNS Electric installed a  
3 work management applications computer system. From this tracking system, the Company has  
4 determined that it has replaced or installed, to date, 271 poles and 16,402 feet of underground  
5 cable.

6 It appears that Mr. Magruder does not believe that (i) Citizens fulfilled its obligations  
7 under the Plan; and/or (ii) UNS Electric, as the successor to Citizens, completed the 20 pole and  
8 12 underground cable replacement projects identified in the Plan.

9 **II. POLE REPLACEMENT PROJECTS.**

10 It is UNS Electric's understanding that Citizens estimated the number of poles located  
11 within each project area identified in the Plan, set a budget for the replacement work and then  
12 started working. As Citizens worked on the projects, it determined which specific poles in each  
13 area needed to be replaced. Citizens completed the project work in 2000.

14 Based upon Citizens' records, the 20 pole replacement projects identified in the Plan have  
15 been completed. UNS Electric has extracted specific pole replacement data from records  
16 provided by Citizens; that data is attached hereto as Exhibit 1. Additionally, UNS Electric has  
17 made substantial improvements to the Santa Cruz County electric system since it began  
18 operations, including the addition of 271 poles.

19 **III. UNDERGROUND CABLE REPLACEMENT PROJECTS.**

20 The 12 underground cable replacement projects identified in the Plan have been  
21 completed. UNS Electric has extracted specific underground cable replacement data from  
22 records provided by Citizens; that data is attached hereto as Exhibit 2. As referenced above, Mt.  
23 Hopkins, the only underground cable replacement project not completed by Citizens, was  
24 addressed by UNS Electric in 2003, with a capital expenditure of \$140,377. UNS Electric  
25 continued to improve reliability in the Mt. Hopkins line, with additional capital expenditures of  
26 \$350,099 through February 2006.

1        Additionally, UNS Electric has made substantial improvements to the Santa Cruz County  
2 electric system by adding 16,402 feet of underground cable to the system.

3        **IV. SYSTEM INVESTMENT.**

4        UNS Electric has gone to great lengths, and made substantial capital investment, to  
5 significantly improve system reliability in Santa Cruz County. Between the time the Company  
6 began operating the former Citizens' system and June 2006, UNS Electric spent approximately  
7 \$22.5 million for Santa Cruz County system improvements and re-enforcement. UNS Electric  
8 provided a comprehensive list of projects the Company completed during this period in response  
9 to a Commission Staff data request, STF 2.1. UNS Electric has pulled the information relevant  
10 to the Santa Cruz County improvements from that data response, and has attached it hereto as  
11 Exhibit 3. Exhibit 3 reflects UNS Electric's investment to (i) improve system reliability  
12 (approximately \$22.5 million); and (ii) provide new service (approximately \$2.5 million), for a  
13 total expenditure of approximately \$25 million.

14        **VI. CONCLUSION.**

15        Between Citizens and UNS Electric, the pole and underground replacement projects  
16 identified in the Plan have been completed. Subsequently, UNS Electric has made substantial  
17 capital investments in the Santa Cruz system that have significantly improved the system's  
18 service quality and reliability.

19  
20        RESPECTFULLY SUBMITTED this 28<sup>th</sup> day of July 2008.

21  
22        UNS ELECTRIC, INC.

23  
24        By Michelle Livengood  
25        Michelle Livengood  
26        UniSource Energy Services  
27        One South Church Avenue  
            Tucson, Arizona 85702

and

Michael W. Patten  
ROSHKA DEWULF & PATTEN, PLC.  
One Arizona Center  
400 East Van Buren Street, Suite 800  
Phoenix, Arizona 85004

Attorneys for UNS Electric, Inc.

Original and thirteen copies of the foregoing  
filed this 28<sup>th</sup> day of May 2008, with:

Docket Control  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Copy of the foregoing hand-delivered  
this 28<sup>th</sup> day of July, 2008, to:

Dwight Nodes, Esq.  
Administrative Law Judge  
Hearing Division  
Arizona Corporation Commission  
400 W. Congress  
Tucson, Arizona 85701

Compliance Section, Utilities Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

By: Debbie Amund

Exhibit

MM-11

Page 5 of 10 pages

# Exhibit 1

## Exhibit

MM-11

Page 6 of 10 pages

Exhibit 1

Pole Replacement Projects	Exhibit 1		
	Year Completed	# of Poles (Estimated # of Poles in Area)	Estimated # of Poles Needed to be Replaced
Nogales West Area	1999	75	36
Nogales West north area	1999	75	44
Reconductor Mariposa Industrial Park	1999	75	18
Downtown Southeast	1999	300	79
Downtown Northwest	1999	300	181
Downtown Southwest	1999	500	129
Downtown Northeast	1999	300	55
Beatus Estates	1999	150	
Valle Verde	1999	150	156
Chula Vista	2000	50	
Activate Circuit 6242 (s/b 6246)	2000	100	
Circuit 6241	1999	50	
Meadow Hills North	1999	75	11
Meadow Hills South	1999	75	
Transmission Line	1999	20	
Highway 82	1999	250	219
Old Tucson Road	1999	10	18
Rio Rico Highway Crossing	1999	0	
Rio Rico Industrial Park	1999	25	21
Flux Canyon Area	2000	500	200
<b>Totals</b>		<b>3080</b>	<b>1145</b>

## Exhibit 2

## Exhibit

MM-11

Page 8 of 10 pages

## Exhibit 2

Underground Line Replacement Projects	Feet of Cable Needed	Estimated Cost	Year Completed	1999 Capital Expenditures	2000 Capital Expenditures	Total Citizens Underground \$
Mariposa Manor	7,677	\$ 61,416.00	1999			
Monte Carlo	12,040	\$ 48,160.00	1999		\$ 43,600.00	
Rio Rico U-3	28,160	\$ 327,560.00	1999			
Preston Trailer Park	3,633	\$ 29,064.00	2000		\$ 67,600.00	
Tubac Country Club	6,900	\$ 55,200.00	1999			
Tubac Valley Country Club	4,300	\$ 34,400.00	1999			
Palo Parado	13,530	\$ 54,120.00	1999			
Empty Saddle Estates	8,180	\$ 65,440.00	1999			
Mt. Hopkins	52,800	\$ 457,400.00	2003*		\$ 2,300.00	
Meadow Hills	15,840	\$ 126,720.00	1999			
Canyon Del Oro/Vista Del Cielo	4,500	\$ 36,000.00	1999			
Rio Rico Resort	1,828	\$ 14,624.00	1999			
<b>Totals</b>	<b>159,388</b>	<b>\$ 1,310,104.00</b>	<b>1999</b>	<b>\$ 1,666,920.00**</b>	<b>\$ 113,500.00</b>	<b>\$ 1,780,420.00</b>

\* UNS Electric completed this project.

\*\*One line-item entry as of October 1999, attributable to underground cable replacement.



## Exhibit 3

See Attached CD

ORIGINAL

BEFORE THE ARIZONA CORPORATION

COMMISSIONERS

Mike Gleason, Chairman  
William A. Mundell  
Jeff Hatch-Miller  
Kristin K. Mayes  
Gary Pierce

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ARIZONA CORPORATION  
BOARD OF DIRECTORS

Exhibit  
MM-12

IN THE MATTER OF THE  
APPLICATION OF UNS ELECTRIC,  
INC. FOR APPROVAL OF THE  
ESTABLISHMENT OF JUST AND  
REASONABLE RATES AND  
CHARGES DESIGNED TO REALIZE A  
REASONABLE RATE OF RETURN ON  
THE FAIR VALUE OF THE  
PROPERTIES OF UNS ELECTRIC,  
INC.

**Docket No. E-04204A-06-0783**  
**Notice and Filing of the Marshall Magruder**  
**Rebuttal to the UNSE Response to Mr.**  
**Magruder's Concerns with respect to**  
**Completion of**  
**20 Replacement Utility Poles and**  
**12 Underground Cable Projects**  
**13 September 2008**

This is the Marshall Magruder Rebuttal to the UNS Electric Inc. Response of 28 July 2008 to the concerns I expressed in this case with respect to accomplishing the 20 replacement utility pole and 12 underground cable projects detailed in the ACC Staff-Citizens [now UNSE] Settlement Agreement required by ACC Decision No. 61793 and implemented in ACC Decision No. 62011. The UNSE Response was not distributed to Parties including ACC Staff, RUCO or myself and is incomplete and non-compliant with ACC Decision No. 70360 order which ordered a "detailed" response.

I certify this filing notice has been mailed to all known and interested parties, as shown on the Service List.

Respectfully submitted on this 10<sup>th</sup> day of September 2008

MARSHALL MAGRUDER

By

*Marshall Magruder*

Marshall Magruder  
PO Box 1267  
Tubac, Arizona 85646  
(520) 398-8587  
[marshall@magruder.org](mailto:marshall@magruder.org)

Arizona Corporation Commission

DOCKETED

SEP 15 2008

DOCKETED BY

*MM*

**Service List**

Original and 18 copies of the foregoing are filed this date:

**Docket Control** (13 copies)

**Arizona Corporation Commission**

1200 West Washington Street

Phoenix, Arizona 85007-2927

**Dwight Nodes**, Chief Administrative Law Judge (1 copy)

**Tenna Wolfe**, Administrative Law Judge (1 copy)

**Ernest G. Johnson**, Director Utilities Division (1 copy)

**Janice Alward**, Chief Counsel (1 copy)

**Maureen Scott**, Senior Staff Counsel (1 copy)

Additional Distribution (1 copy each, Filing Notice only to attorneys for PWCC and APS):

**Michael W. Patten**, Attorney for the Applicant

Roshka, DeWulf & Patten, PLC

One Arizona Center

400 East Van Buren Street, Suite 800

Phoenix, Arizona 85004-2262

**Dan Podzefsky**, Chief Counsel

Residential Utility Consumer Office

(RUCO)

1110 West Washington Street, Ste 220

Phoenix, Arizona 85007-2958

**Raymond S. Heyman**, Corporate Counsel

**Michelle Livengood**, Attorney

UniSource Energy Services

One South Church Avenue, Ste 200

Tucson, Arizona 85701-1621

Filing Notice only (1 copy each of filing notice)

**Robert J. Metli**, Attorney for PWCC and APS

Snell & Wilmer, L.L.P.

One Arizona Center

400 East Van Buren Street

Phoenix, Arizona 85004-2202

**Thomas L. Mumaw**, Attorney for PWCC

**Deborah A. Scott**, Attorney for PWCC

Pinnacle West Capital Corporation

P. O. Box 53999, Mail Station 8695

Phoenix, Arizona 85072-3999

**Barbara A. Clemstine**, Attorney for APS

Arizona Public Service Company

P. O. Box 53999, Mail Station 9708

Phoenix, Arizona 85072-3999

Interested Parties (1 copy each) are filed this date by mail:

Santa Cruz County Supervisors:

**John Maynard**, Supervisor

**Louis Parra**, Assistant Santa Cruz

County Attorney

Santa Cruz County Complex

2150 North Congress Drive

Nogales, Arizona 85621-1090

City of Nogales

**José Machado**, City Attorney

**Michael Massee**, Assistant City Attorney

Nogales City Hall

777 North Grand Avenue

Nogales, Arizona 85621-22621

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**MARSHALL MAGRUDER REBUTTAL  
TO THE  
  
UNSE RESPONSE TO  
  
MR. MAGRUDER'S CONCERNS  
WITH RESPECT TO  
  
COMPLETION OF  
20 REPLACEMENT UTILITY POLE AND  
12 UNDERGROUND CABLE  
PROJECTS**

**13 SEPTEMBER 2009**

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35		

## Summary

In 1998, the City of Nogales filed with the Commission a Formal Complaint against Citizens Utility Company, its electricity utility, for not providing reliable electric service, causing economic damages and endangering community welfare. This was resolved by two sequential settlement agreements after strong intervention by the Commission. The City of Nogales and Citizens Settlement Agreement included agreements to compensate customer claims, by funding direct payments to customers, low income relief, economic development, four-year interest free loans to high school graduates and to improve electric service and community relations by creating a Citizens Advisory Council, collaborating with City to determine order of circuit restoration after an outage, developing a mutually acceptable and detailed Service Upgrade Plan for submission to the Commission, and negotiate a franchise agreement with the City. Citizens then negotiated a Plan of Action with the Commission Staff that resulted in an ACC Staff and Citizens Settlement Agreement containing schedules budgets for dozens of upgrades Citizens agreed to accomplish to improve reliability in Santa Cruz County. In addition to providing a second transmission line, the Plan of Action included many "non-transmission" projects with two major distribution reliability upgrades involving replacements for overage utility poles in 20 projects in specified locations, mostly in Nogales, and 12 projects to replace defective and improperly installed underground cables. The Complaint was dismissed when a Commission Order approved the City's Settlement Agreement and the Plan of Action implemented in a second Commission Order No. 62011 on 2 November 1999.

*to* Citizens started accomplishing the Plan of Action reliability improvements in 1999 and ~~had~~ replaced some of the 3,080 utility poles and 159,388 feet of underground cables by the time of the second Commission order costing over \$15 million for these projects. In 2005, after observing that many of these 32 projects did not appear to have been even started, I declared in testimony in the re-opened ACC Order No. 62011 case that these projects remained incomplete and was told to resubmit in the next Rate Case, which I did, in every submission to the Parties. The company did NOT respond to these pleadings and rejected my claims.

1 The resultant ACC Decision and Order No. 70360 ordered UNS Electric to submit  
2 a "detailed response to Mr. Magruder's allegations regarding the poles and underground  
3 cables under the 1999 Nogales/Citizens Settlement Agreement".

4 The UNSE Response is incomplete, erroneous and failed to provide ANY details  
5 concerning these 32 projects as no actual details or evidence presented refuted my claims.  
6

7 For example, 25 projects were claimed as being completed in 1999 which is  
8 absolutely false. Every underground cable replacement project was spread out over five  
9 years but UNSE claimed were completed in 1999, usually expending exactly the first year's  
10 planned expenditures. Only "estimates" were provided, no actual data, for the 20 pole  
11 projects which should have been easy to obtain since each pole has a "CUC number", each  
12 pole is annually depreciated according to a schedule provided in this case, and the  
13 company must know where poles are located in these project areas. Twenty 115 kV  
14 transmission line poles were not replaced. No feet of cable replacements were reported.

15 To the best of my ability under these conditions, I have tried to reconstruct each  
16 project using the flimsy information available, mostly from the Plan of Action itself. At best, I  
17 believe, at best, only 21.1% of the poles were replaced and 16.2% cable-feet were  
18 replaced.  
19

20 As shown in the Staff's Technical Report in this rate case, the relevant distribution  
21 "reliability indices" (SAIFI, SAIDI and CAIDI) decreased from the second quartile to the third  
22 (CAIDI) and fourth quartiles (SAIFI and SAIDI) between 2004 and 2006.  
23

24 The UNSE Response on page 2 stated  
25 "It appears that Mr. Magruder **does not believe** that

26 (1) Citizens fulfilled its obligations under the Plan' and/or  
27 (2) UNS Electric, as the successor to Citizens, completed the 20 pole and 12  
28 underground replacements projects in the Plan." [Emphasis added]  
29

30 I believe neither (1) and/or (2) have been completed and that the UNSE  
31 Response failed to provide the details ordered by the Commission for these pole and  
32 cable replacement projects in the Plan of Action.  
33  
34  
35



1 **Marshall Magruder Rebuttal to the UNSE Response to Mr. Magruder's Concerns with**  
2 **Respect to Completion of 20 Replacement Utility Pole and 12 Underground Cable**  
3 **Projects**

4 1. **ACC Order Requirements.**

5 ACC Decision 70360 of 27 May 2208,

6 "ORDERED that UNSE shall file a detailed response to Mr. Magruder's allegations  
7 regarding the poles and underground cables under the 1999 Nogales/Citizens  
8 Settlement Agreement, within 60 days of the effective date of this Decision. Replies to  
9 the Company's response shall be filed by Mr. Magruder, Staff and RUCO within 30 days  
thereafter." <sup>1</sup> [underlined for emphasis and later reference]

10 2. **UNSE Response.**

11 UNSE filed its response on 28 July 2008 (32 days after the effective date of the order) and did not  
12 include this Party, RUCO or the ACC Staff on its distribution list and receipt by these parties is  
13 unknown.<sup>2</sup> The UNSE Response is ambiguous, without details, and is not compliant with this  
14 Order as shown below.

15 3. **UNSE Response Distribution.**

16 I did not receive a copy of this filing until 2 September 2008, from which the 30 days to respond  
17 can begin. No responses or rebuttals have been received by this party or docketed by ACC Staff  
18 and RUCO as of the date of this filing. These other two parties, the ACC Staff and RUCO need  
19 time to respond, after being served a copy.

20 4. **Why is this issue significant to customers in Santa Cruz Service Area?**

21 This is best explained by the words used by Citizens in its "1999 System Improvement, Santa  
22 Cruz District" section of its Plan of Action.<sup>3</sup> These are in the Plan of Action mandated by ACC  
23  
24

25 <sup>1</sup> ACC Decision No. 70306 of 27 May 2008, hereafter **Decision No. 70306**, page 86. It is noted the City of  
26 Nogales-Citizens Settlement Agreement required the utility to develop an Upgrade Plan or Plan of Action to  
improve reliability. The plan of action is in a ACC Staff-Citizens Settlement Agreement.

27 <sup>2</sup> UNSE filing in Docket No E-04204A-06-0783, titled "UNS Electric, Inc.'s Response to Mr. Magruder's  
Concerns," dated 28 July 2008 (hereafter "**UNSE Response**"), page 4.

28 <sup>3</sup> Late-Filed Exhibits by Marshall Magruder" in the present case on 24 December 2007 (hereafter **Late-Filed**  
29 **Exhibits**), Exhibits M-D and M-E. These Exhibits are referenced in the Magruder filings but appear ignored  
30 by UNSE. These entire documents were submitted as five Exhibits. Three Exhibits were previously filed in  
the Reliability Case and referenced many times in the present case. All are labeled with an "M" prefix, using  
alphabetic sequence letters for identification purposes that continues in this Rebuttal:

31 Exhibit M-A "ACC Decision No. 61793, "City of Nogales, Arizona, Complaint, vs. Citizens Utility Company,  
32 Santa Cruz Electric Division" of 29 June 1999 with Appendix A, "Revised Settlement  
33 Agreement Between the City of Nogales, Arizona, and Citizens Utilities Company" of 1 June  
1999 (15 pages), hereafter "**Nogales-Citizens Agreement**")

34 Exhibit M-B This exhibit is not applicable to this filing.

35 Exhibit M-C "UNS Electric Responses to Magruder Data Requests MM DR 2.6 and MM DR 3.10, and  
Data Requests MM DR 2.8 and MM DR 3.12 (6 pages), hereafter **Exhibit M-C**.

Decision No 61793 on 29 June 1999 and implemented by ACC Decision No. 62011 on 2 November 1999, previously been submitted in the present case.<sup>4</sup>

Quote:

### **Distribution Circuits Improvements**

#### **Introduction**

The distribution system improvements are an acceleration of work that was begun in 1994. These projects include replacement of poles and underground cable. In 1994, pole replacements were concentrated in the northern part of Santa Cruz County. Some of the overhead work involves splitting circuits that share poles, in one case it involves activation of an additional circuit in Nogales. Underground cable replacements are targeted at reducing outage hours in areas that have expressed frequent outages.

#### **Overhead Circuits**

The pole replacements are mainly concentrated in the Nogales area. These poles have reached the end of their life cycle. Some of the pole replacements involve the relocation of circuits, as in the case of Circuits 6241 and 6246. Circuit 6241 feeds the west-side of Nogales (and feeds the hospital). Circuit 6241 shares a pole with Circuit 6246. By relocating a portion of 6241, Citizens can reduce the stress on the poles and eliminate potential outages due to structural failures. Activation of Circuit 6246 will allow Citizens to split the load on the west-side of Nogales, and increase the ability to back feed 6241 in the event of damage.

A major portion of the pole replacements will be done along Highway 82 and into the mountains in the Locheil area. This loop will allow Citizens to sectionalize and isolate damaged portions of line, thereby keeping the highest number of customers in service.

#### **Underground Circuits**

Underground cable replacements are concentrated in Rio Rico and Tubac. The Rio Rico Unit 3 area was installed in the early 1970's. This cable was directly buried and is ending its useful life cycle. A significant number of outages occur in this area. Smaller sections of cable needed to be replaced in other subdivisions, but not as much as in the above two subdivisions.

A significant portion of the cable replacements involves the underground feed to the top of Mount Hopkins. This cable was installed by a contractor in the 1970's, and was also direct buried. This cable has numerous faults. When a fault occurs, locating the faulted portion requires an entire crew. It should be noted that because this part of the county is so far from the rest of the service territory, if there is an outage that requires a crew from Nogales, it takes a minimum of an hour for them to get there.

The major portion of these replacements in Nogales are in trailer parks. These parks also have cable that was direct buried and have numerous faults. The older sections of Meadow Hills has the same type of cable installation. Some faults have occurred in this area, and some cable has been replaced as well.<sup>5</sup>

End Quote

Exhibit M-D Citizens' Plan of Action, filed 7 May 1999, excerpt, "Attachment IV Citizens Utility Company Pole and Cable Replacements Santa Cruz Electric District, 1999-2003 (6 pages) hereafter **Exhibit M-D or Citizens Pole and Cable Replacement Plan**.

Exhibit M-E Citizens' Plan of Action, filed 7 May 1999, excerpt, "1999 System Improvements Santa Cruz District" (4 pages), hereafter **Exhibit M-E**.

<sup>4</sup> Exhibit M-E, page 3 of 4.

<sup>5</sup> *Ibid*.

1  
2 The above was presented to the Commission by the utility in 1999, almost a decade ago.<sup>6</sup>  
3 These 3,080 "past life cycle" utility poles planned for replacement are now 10 years older, 10  
4 years after completion of their life cycle replacement plan. The underground cables "ending its  
5 useful life cycle" with a "significant number of outages in the future"... with "numerous faults" are  
6 also 10 years older. Past life cycle poles and cables only age with time and the additional 10  
7 years of life need to be justified by the company. The company's annual expenditures for these 32  
8 projects were included for each project.

9  
10 **4.1 Plan of Action Commitments.**<sup>7</sup>

11 The record is clear, that Citizens made a strong commitment to these 32 projects. Each  
12 project was developed to improve distribution reliability in a reasonable, long-term approach to  
13 eventually increase overall customer reliability. Some had started as early as 1994. Excerpts from  
14 some of these commitments, approvals, and mandates include:

- 15 a. The "Settlement Agreement Between Commission Staff and Citizens Utilities Company,"<sup>8</sup>  
16 initial paragraphs state:

17 "Citizens Utilities Company ("Citizens") and the Arizona Corporation Commission  
18 Staff ("Staff") **agree** as follows concerning Citizens' Plan of Action to address  
19 service quality issues in its Santa Cruz Electric Divisions, Citizens' Analysis of  
20 Transmission Alternatives and Citizens' Schedule to construct a second  
21 transmission line to serve its Santa Cruz Electric Division Customers. Citizens'  
22 Plan of Action, as filed on April 15<sup>th</sup>, 1999, and Supplemented on May 7<sup>th</sup>, 1999,  
23 and July 13<sup>th</sup>, 1999, complies with Decision Nos. 61383 and 61793..."

- 24 b. ACC Decision No. 62011, in Findings of Fact 2, states:

25 "Decision 61383 (January 9, 1999) **directed** Citizens to file an analysis of  
26 alternatives and Plan of Action to rectify the service problems in the Santa Cruz  
27 Electric Division, for approval at Open Meeting, and order that a hearing be held  
28 regarding Citizens' request."

- 29 c. The ACC Decision No. 62011, in Finding of Fact 15, states:

30 "The [Commission Staff-Citizens] Settlement Agreement **commits** Citizens to a  
31 Plan of Action that is in compliance with Decisions No. 61383 and 61793 and  
32 incorporates Staff recommendations... The Settlement Agreement states that the  
33 Plan of Action includes Citizens' submittal of April 15, 1999, as supplemented on  
34 May 7, 1999 and July 13, 1999."

35  
<sup>6</sup> Filed in the Citizens Plan of Action of 4 May 1999 in ACC Docket No. E-01032A-99-0401, implemented in  
ACC Decision and Order No. 62011 of 2 November 1999, subsequently been reopened in 2005, and  
remains open.

<sup>7</sup> These four subparagraphs (a to d) are excerpts from Late-Filed Exhibits, page 5.

<sup>8</sup> Dated 9 August 1999 in ACC Docket E-01032A-99-0401.

d. The Citizens Plan of Action, "Supplement to Citizens Utilities Company's Santa Cruz Electric Division Transmission Alternatives and Plan of Action" states under "Planned Improvements That are Not Dependent On Construction of Second Transmission Line" states:

"Citizens is currently replacing poles and cable. Attachment IV includes detailed schedules showing the areas where replacements will be made, the number of poles or amount of cable that will be replaced, and the capital expenditures to do so, for the years 1999-2003."

#### 4.2 Distribution Outages in the UNSE Santa Cruz service area.

During the re-opened ACC Order No. 62011 hearings, I submitted a detailed analysis of all outages in this service area between 1994 and 2004 using the monthly "outage" reports submitted to the ACC Staff during that time period as shown in Exhibit M-F below. This data shows in 11 years there were 2,217 distribution outages during major storms and 2,080 other distribution outages for a total of 4,297 distribution outages. Santa Cruz County is one of the most lightning prone areas in the United States with over 2,000 lightning strikes in an hour. On an annual average basis, outages in the service area were as follows:

- |                                      |  |
|--------------------------------------|--|
| a. During Major Storms:              | 201.5 Distribution outages per year (= 2217/11)        |
| b. At all other times                | 189.1 Distribution outages per year (= 2080/11)        |
| c. <b>Total Distribution Outages</b> | <b>390.6 Distribution outages per year (= 4297/11)</b> |

The bulk of the distribution system consists of wires connecting customers to the servicing substation. These are overhead wires on utility poles and underground cables that are connected to distribution transformers as the feeder circuits extend from the substation.

Since a vast majority of customer outages are related to the distribution system, then highly reliable structures holding the connectors and actual underground cables must meet high standards. As the earlier statement by Citizens clearly states, the utility poles selected for replacement were "beyond their service life". In other words, they required replacement in order to meet the service quality of the proceedings that lead up to ACC Order No. 62011. The design of the twenty overhead utility pole replacement projects was based on utility poles that were beyond service life and the best ones to be upgraded in order to improve distribution service reliability.

Furthermore the underground cable used was of low reliability and had been improperly laid. Underground cables need proper burial, and "improper installations often can lead to premature field failures."<sup>9</sup>

<sup>9</sup> "Underground Cables Need a Proper Burial," *Transmission & Distribution World*, 1 April 2003. This article indicates the effects of improper selection and installation of thermal backfill materials may not be evident for several years. Heat from the cable must be dissipated through the soil and is quantified by soil thermal

1 **5. Analysis of the Status of the 20 Utility Pole Replacement Projects.**

2 **5.1 Background Information on the 20 Defective Pole Replacement Projects.**

3 At issue are the specific twenty defective utility pole replacement projects. This was first  
4 presented to the Commission in July 2005 during the "reliability in Santa Cruz service area" case.  
5 My Testimony<sup>10</sup> provided the same information in Exhibit M-H.<sup>11</sup> I was told during those hearings  
6 the proper venue for this issue would be the next Rate Case, which is why this issue has been  
7 raised again. Starting in my Motion to Intervene<sup>12</sup>, Data Requests in discovery<sup>13</sup>, then in Direct  
8 Testimony<sup>14</sup>, Supplemental Direct Testimony<sup>15</sup>, Surrebuttal Testimony<sup>16</sup>, Summary<sup>17</sup>, Late Filed  
9 Exhibits<sup>18</sup>, Reply to UNSE Response to Late-Filed Exhibits by Magruder<sup>19</sup>, Opening Brief<sup>20</sup>, Reply  
10 Brief<sup>21</sup>, and Exceptions<sup>22</sup>, this issue has been presented over and over again with **negligible**  
11 **responses by UNSE.**

12  
13 resistivity (rho, in °C-cm/W) which can vary from 30 to 500°C-cm/W. Safe soil has a thermal rho of less than  
14 90°C-cm/W and is also moist. The thermal rho of a dry soil may exceed 150°C-cm/W and approach 300°C-  
15 cm/W for a dry uniform sand. Soils in semi-arid climates are naturally quite dry. Soil that is not properly  
16 compacted in the cable trench has a substantially higher thermal rho. Well-graded sand to fine gravel that is  
17 compacted to its maximum density determined by a standard Proctor test from ASTM-D689 can give a  
18 good thermal backfill." A copy of this article can be obtained from this party.

19 <sup>10</sup> In ACC Docket No E-01032A-99-0401, "In the Matter of service Quality issues, Analysis of Transmission  
20 Alternatives and Proposed Plan of Action in the Santa Cruz Electric Division of Citizens Utilities Company,"  
21 (hereafter **Reliability Case**), Testimony of Marshall Magruder (hereafter **Reliability Case Magruder**  
22 **Testimony**), 8 July 2005, pages 135 to 137. This is in Exhibit M-H herein.

23 <sup>11</sup> In the "Late-Filed Exhibits by Marshall Magruder" in the present case on 24 December 2007 (hereafter  
24 **Late-Filed Exhibits**), five exhibits were filed with all but two were previously filed in the Reliability Case,  
25 referenced many times in the present case. For reference purposes these five exhibits were labeled with an  
26 "M" prefix, using alphabetic sequence letters for identification purposes that is continued in this Rebuttal.

27 Exhibit M-A "ACC Decision No. 61793, "City of Nogales, Arizona, Complaint, vs. Citizens Utility Company,  
28 Santa Cruz Electric Division" of 29 June 1999 with Appendix A, "Revised Settlement  
29 Agreement Between the City of Nogales, Arizona, and Citizens Utilities Company" of 1 June  
30 1999 (15 pages), hereafter "**Nogales-Citizens Agreement**")

31 Exhibit M-B This exhibit is not applicable to this filing.

32 Exhibit M-C "UNS Electric Responses to Magruder Data Requests MM DR 2.6 and MM DR 3.10, and  
33 Data Requests MM DR 2.8 and MM DR 3.12 (6 pages), hereafter **Exhibit M-C**.

34 Exhibit M-D Citizens' Plan of Action, filed 7 May 1999, excerpt, "Attachment IV Citizens Utility Company  
35 Pole and Cable Replacements Santa Cruz Electric District, 1999-2003 (6 pages) hereafter  
**Exhibit M-D or Citizens Pole and Cable Replacement Plan**.

Exhibit M-E Citizens' Plan of Action, filed 7 May 1999, excerpt, "1999 System Improvements Santa Cruz  
District" (4 pages), hereafter **Exhibit M-E**.

<sup>12</sup> Marshall Magruder Motion to Intervene of 12 March 2007 for Docket No. E-04204A-06-0783, page 1.

<sup>13</sup> Exhibit M-C, Data Requests MM DR 2-8 and MM DR 3-10 and Late Filed Exhibits, page 11

<sup>14</sup> Testimony by Marshall Magruder, of 28 June 2007, hereafter **Magruder Direct Testimony**.

<sup>15</sup> Supplemental Direct Testimony by Marshall Magruder, of 12 July 2007, hereafter **Magruder Supplemental**  
**Testimony**, all of Part V, pages 8 and 22 to 49.

<sup>16</sup> Magruder Surrebuttal Testimony, all of Part V, pages 8 and 9, and pages 36 to 50.

<sup>17</sup> Magruder Summary of Testimony, 19 July 2007, page 3.

<sup>18</sup> Late-Filed Exhibits, paragraph 2.b, pages 5 and 6; Part III, pages 9 to 11; and Exhibits M-C, M-D, and M-E.

<sup>19</sup> Magruder Reply to UNSE Response to Late-Filed Exhibits by Marshall Magruder, 12 January 2008, page 2,  
<sup>20</sup> Opening Brief by Marshall Magruder, of 5 November 2007, pages 19 and 20.

<sup>21</sup> Reply Brief by Marshall Magruder of 19 November 2007, pages 11 and 12.

1 The total response by UNSE to the above testimony and evidence provided by Marshall  
2 Magruder as indicated in the above paragraph is found in the Initial UNSE Post Hearing Brief:

3 **"Magruder Adjustments.**

4 Mr. Magruder proposed to disallow \$15,561,520 for what he views as an apparent  
5 failure to comply with Commission decisions, and to disallow \$282,440 for utility pole  
6 replacement and underground cable replacement. Mr. Magruder provides no  
7 supporting evidence justifying his proposed disallowances. Therefore, they should not  
8 be accepted."<sup>23</sup> [Underlining inserted for emphasis]

9 The company denied responding to Marshall Magruder Data Requests MM DR 2-8<sup>24</sup> and MM  
10 DR 3-10<sup>25</sup>. A complete response during discovery would have eliminated the requirements in the  
11 UNSE Response and this Rebuttal specified in Order No. 70360 for the same detailed information  
12 requested a year earlier. This failure to respond led to repeating the prior request in the Reliability  
13 Case in the Supplemental Direct Testimony and other filings in this docket.

14 The anticipated (and identical) company response to MM DR 3-10 was received after  
15 submission of the Magruder Supplemental Testimony that provided a detailed discussion of the  
16 twenty (20) utility pole replacement projects.<sup>26</sup> The detailed information from STF DR 3.118 and  
17 STF DR 2.1 contained all projects accomplished after UniSource Energy acquisition of Citizens on  
18 12 August 2003. From the other DRs, six of these 20 defective pole replacement appeared have  
19 related to the initial pole projects. As the analysis presented in this testimony<sup>27</sup> concluded:

20 "The data do NOT support completing ANY Pole Replacement Projects 1 through 20."<sup>28</sup>

21 **5.2 Analysis Comparing the Plan of Action to the UNSE Utility Pole Data.**

22 Each project in the Plan of Action has a total number of poles to be replaced, an annual  
23 breakout of poles to be replaced per year, and an annual budget are shown in the tables found in  
24 Exhibit M-G<sup>29</sup>. This data are compared with the results reported in the UNSE Response.<sup>30</sup> Table  
25 1 below summarizes the data from Exhibit M-G.

26  
27  
28 <sup>22</sup> Exceptions to the Recommended Opinion and Order by Marshall Magruder, of 5 May 2008 pages 15 and 16.

29 <sup>23</sup> Initial Post-Hearing Brief of UNS Electric, Inc., of 5 November 2007, page 20. The subsequent Reply Post-Hearing Brief by UNS Electric, Inc., of 19 November 2007 has NO references to any Magruder issues.

30 <sup>24</sup> Exhibit M-C, see MM DR 2-8, the company's response was "UNS Electric objects to this data request, as it is unduly burdensome and outside the scope of this rate case."

31 <sup>25</sup> *Ibid.*, see MM DR 3-10, the company's response was "UNS Electric objects to this data request, as it is unduly burdensome and outside the scope of this rate case."

32 <sup>26</sup> Magruder Supplemental Testimony, pages 30 and 31.

33 <sup>27</sup> *Ibid.*, pages 25 to 32.

34 <sup>28</sup> *Ibid.*, page 33.

35 <sup>29</sup> Citizens Pole and Cable Replacement Plan, found in Exhibit M-D, third unnumbered page.

<sup>30</sup> UNSE Response, Exhibit 1 for pole replacement projects.

**Table 1 – Summary Data for the Defective Pole Replacement Projects**

Pole Proj. ID No.	Project Area Described in the Plan of Action	Number of Poles to be Replaced	Poles Replaced to Date (1999)	Percent of Poles in Project Replaced	Number of Poles not Documented as Replaced	Total Budget for Project	Est. Cost per Pole	Actual Project Cost
(a)	(b)	(c) <sup>31</sup>	(d) <sup>32</sup>	(e) = (d)/(c)	(f) <sup>33</sup>	(g) <sup>34</sup>	(h) = (g)/(c)	(i)
1	Nogales West area	75	26	<b>34.7%</b>	10	\$300,000	\$4,000	Not reported
2	Nogales West north area	75	28	<b>37.3%</b>	16	\$210,000	\$2,500	Not reported
3	Reconductor Mariposa Industrial Park <sup>35</sup>	75	75	100.0%	15	\$165,000	\$2,200	Not reported
4	Downtown Nogales - Southeast	300	74	<b>34.7%</b>	5	\$840,000	\$2,800	Not reported
5	Downtown Nogales - Northwest	300	115	<b>38.3%</b>	46	\$860,000	\$2,867	Not reported
6	Downtown Nogales - Northwest	500	91	<b>18.2%</b>	48	\$1,274,000	\$3,548	Not reported
7	Downtown Nogales - Southeast	300	20	<b>6.7%</b>	35	\$860,000	\$2,867	Not reported
8	Beatus Estates Subdivision	150	0	<b>0.0%</b>	0	\$420,000	\$2,800	Not reported
9	Valle Verde Subdivision	150	106	70.6%	50	\$420,000	\$2,800	Not reported
10	Chula Vista Subdivision	50	0	<b>0.0%</b>	0	\$140,000	\$2,800	Not reported
11	Activate Circuit 6242	100	0	<b>0.0%</b>	15	\$420,000	\$4,200	Not reported
12	Circuit 6241	50	0	<b>0.0%</b>	0	\$140,000	\$2,000	Not reported
13	Meadow Hills North Subdivision	75	0	<b>0.0%</b>	5.5	\$210,000	\$2,800	Not reported
14	Meadow Hills South Subdivision	75	0	<b>0.0%</b>	5.5	\$210,000	\$2,800	Not reported
15	Transmission Line	20	0	<b>0.0%</b>	0	\$320,000	\$16,000	Not reported
16	Highway 82	250	148	59.2%	71	\$755,000	\$3,200	Not reported
17	Old Tucson Road	10	9	90.0%	10	\$25,000	\$2,500	Not reported
18	Rio Rico Highway Crossings	0	0	<b>0.0%</b>	0	\$128,000	0	Not reported
19	Rio Rico Industrial Park	25	16	64.0%	5	\$100,000	\$4,000	Not reported
20	Flux Canyon Area	500	0	<b>0.0%</b>	200	\$1,400,000	\$2,800	Not reported
	<b>Totals</b>	<b>3,080</b>	<b>634</b>	<b>21.1%</b>	<b>537</b>	<b>\$7,223,975</b>	<b>N/A</b>	<b>unknown</b>

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<sup>31</sup> Citizens Pole and Cable Replacement Plan, found in Exhibit M-D, page 2 of 6, 2<sup>nd</sup> column. This is the number of defective utility poles Citizens planned and funded to be replaced in the Project.

<sup>32</sup> *Ibid.*, page 6, Progress to date. This is a 1999 snapshot of the progress to date and is the last "Actual Number" pole replacement data received.

<sup>33</sup> See Exhibit M-F below for methodology used for each project.

<sup>34</sup> *Ibid.*, page 6, this is the sum of budgets for 1999, 2000, 2001, and 2003, annual budgets are in Exhibit M-G.

<sup>35</sup> *Ibid.* This project is to replace the conductor. Initially, it appears, Citizens projected 75 poles to accomplish this task during 1999 and 2000 on page 2. In its Progress to Date (1999) on page 6, the estimate changed to 1 and the actual number replaced as one. Since reconductor can be accomplished without replacing poles, it appears Citizens reduced to 1 pole for Project No. 3.

1 **6. Analysis of the Status of the 12 Underground Cable Replacement Projects.**

2  
3 **6.1 Background Information about the 12 Defective Underground Cable Replacement**  
4 **Projects.**

5 In developing the cable replacement plan, Citizens knew these cables laid in the 70s were  
6 now or will be soon a leading cause of distribution outages. These twelve underground cable  
7 replacement projects took this into account as a way to improved distribution reliability in the  
8 Santa Cruz service area.

9 These twelve cable replacement projects were presented with the above pole replacement  
10 projects as previously presented in section 5 above. The Data Requests<sup>36</sup> and Magruder  
11 Supplemental Testimony included these projects.

12 Detailed information from STF DR 3.118 and STF DR 2.1, showed four or five of these twelve  
13 defective cable replacement projects appeared they might have been related to the initial projects.  
14 As the analysis presented in this testimony<sup>37</sup> concludes:

15 "The data do NOT support completing ANY Cable Replacement Projects 1 through 12."<sup>38</sup>

16 At issue are the specific twelve defective underground cable replacement projects, which was  
17 first presented in July 2005 to the Commission in testimony<sup>39</sup> and evidentiary hearings concerning  
18 "reliability in Santa Cruz service area" which is repeated in Exhibit M-H. In parallel with the  
19 replacement utility pole issue, these underground cable replacements have also been included in  
20 my Motion to Intervene<sup>40</sup>, Data Request in discovery<sup>41</sup>, Direct Testimony<sup>42</sup>, Supplemental Direct  
21 Testimony<sup>43</sup>, Surrebuttal Testimony<sup>44</sup>, Summary, Late Filed Exhibits<sup>45</sup>, Opening Brief<sup>46</sup>, Reply  
22 Brief<sup>47</sup>, and Exceptions<sup>48</sup>.

23  
24  
25  
26 <sup>36</sup> Exhibit M-C, MM DR 2-8 and MM DR 3-10.

27 <sup>37</sup> Magruder Supplemental Testimony, pages 3 and 33.

28 <sup>38</sup> *Ibid.* page 33.

29 <sup>39</sup> Reliability Case Magruder Testimony, pages 136 and 137. This is in Exhibit M-H herein.

30 <sup>40</sup> Magruder Motion to Intervene, page 1.

31 <sup>41</sup> Exhibit M-C, Data Requests MM DR 2-8 and MM DR 3-10 and Late Filed Exhibits, page 11

32 <sup>42</sup> Magruder Direct Testimony. Due to failure of receiving an informative discovery response to MM DR 2-8,  
33 this Testimony reserved Part V, Costs to Improved Electricity Reliability in the Santa Cruz Service Area, as  
34 MM DR 3-10 had been reworded and resubmitted with response due prior to submission of Supplemental  
35 Testimonies to be filed on 12 July 2008.

36 <sup>43</sup> Supplemental Direct Testimony, Part V, pages 8 and 22 to 49.

37 <sup>44</sup> Magruder Surrebuttal Testimony, all of Part V, pages 8 and 9, and pages 36 to 50.

38 <sup>45</sup> Late-Filed Exhibits, paragraph 2.b, pages 5 and 6; Part III, pages 9 to 11; and Exhibits M-C, M-D, and M-E.

39 <sup>46</sup> Magruder Opening Brief, pages 11 and 12.

40 <sup>47</sup> Magruder Reply Brief, pages 11 and 12.

41 <sup>48</sup> Magruder Exceptions, pages 15 and 16.



**6.2 Analysis Comparing the Plan of Action to the UNSE Cable Replacement Data.**

Each project in the Plan of Action has a total number of cable-feet to be replaced, an annual breakout of poles to be replaced per year, and an annual budget are shown in the tables found in Exhibit M-G<sup>49</sup>. This data are compared with the results reported in the UNSE Response.<sup>50</sup> Table 2 below summarizes the data from Exhibit M-G.

**Table 2 – Summary Data for the Defective Underground Cable Replacement Programs**

Cable Proj. ID No.	Project Area Described in the Plan of Action	Cable-feet planned to be Replaced	Cable-feet Replaced to Date (1999)	Percent of Project Replaced	Cable-feet Document -ed as Replaced	Budget for Project	Est. Cost per Cable-foot	Actual Project Cost to Date	Remaining Cost
(a)	(b)	(c) <sup>51</sup>	(d) <sup>52</sup>	(e) = (d)/(c)	(f) <sup>53</sup>	(g) <sup>54</sup>	(h) = (g)/(c)		
1	Mariposa Manor subdivision	7,677	0	0.0%	0	\$307,080	\$40.00	Not Reported	\$307,080
2	Monte Carlo subdivision	12,040	2,454	20.4%	2,454	\$481,600	\$40.02	Not Reported	\$386,632
3	Rio Rico Urban 3 subdivision	28,160	14,157	50.3%	14,157	\$1,126,000	\$40.00	Not Reported	\$560,160
4	Preston Trailer Park	3,663	0	0.0%	0	\$130,320	\$35.87	Not Reported	\$62,720
5	Tubac Country Club subdivision	6,900	0	0.0%	0	\$276,999	40.00	Not Reported	\$276,000
6	Tubac Valley County Club	4,300	7,290	169.5%	7,290	\$72,000	\$40.00	Not Reported	\$0.0
7	Palo Prado subdivision	13,500	9	0.0%	0	\$531,200	\$39.35	Not Reported	\$477,800
8	Empty Saddle Estates subdivision	8,180	0	0.0%	0	\$327,200	\$40.00	Not Reported	\$327,200
9	Mt. Hopkins	52,800	0	0.0%	0	\$2,147,000	\$40.67	Not Reported	\$2,147,000
10	Meadow Hills subdivision	15,840	0	0.0%	0	\$633,600	\$40.00	Not Reported	\$633,600
11	Canyon Del Oro/Vista Del Cielo	4,500	1,840	0.0%	1,840	\$180,000	\$40.00	Not Reported	\$115,200
12	Rio Rico Resort	1,828	0	0.0%	0	\$73,130	\$40.00	Not Reported	\$73,130
		<b>159,388</b>	<b>25,750</b>	<b>16.2%</b>	<b>25,741</b>	<b>6,285,129</b>	<b>\$40.00</b>	<b>Not Reported</b>	<b>6,285,129</b>

<sup>49</sup> Citizens Pole and Cable Replacement Plan in Exhibit M-D.

<sup>50</sup> UNSE Response, Exhibit 2 for underground cable replacement projects.

<sup>51</sup> Citizens Pole and Cable Replacement Plan, found in Exhibit M-D, page 3 of 6, 2<sup>nd</sup> column. This is the cable-feet of defective cable that Citizens planned and funded to be replaced in the Project.

<sup>52</sup> *Ibid.*, page 6, Progress to date. This is a 1999 snapshot of the progress to date and is the last "Actual Number" cable replacement data received.

<sup>53</sup> See Exhibit M-G below for methodology used for each project.

<sup>54</sup> *Ibid.*, page 6, this is the sum of budgets for 1999, 2000, 2001, and 2003, annual budgets are in Exhibit M-G.

1 **6. Conclusion.**

2 Since no **actual** UNSE pole or cable replacement data were provided during the hearings, the  
3 company's pre-filed and oral testimony or brief, during this case, the following conclusion in the  
4 Magruder Supplemental Testimony will remain valid until receipt of an compliant UNSE  
5 Response, to which this Rebuttal replies.

6 "The detailed electricity reliability in Santa Cruz service area recommendations are  
7 presented paragraph 5.4 herein which recommend deletion of \$15,561,520 from the  
8 UNSE rate base for failure to comply with ACC Orders, to require complete and  
9 continuous compliance with the City of Nogales and ACC Staff Settlement  
10 Agreements, to avoid include expenses performed by Citizens prior to acquisition to be  
11 credited to UNSE."<sup>55</sup> [underlined in the original]

11 **7. Recommendations.**

12 Again, it is recommended that UNSE provide the detailed information necessary to determine the  
13 completion status for EACH of these pole and cable replacement project. As shown in Exhibits M-F  
14 and M-G, below, each project is summarized and locations for actual data are provided as a draft  
15 format for USNE to provide it's next response.

16 It is recommended that UNSE:

- 17 a. Review its utility pole logs and underground project data as suggested herein.  
18 b. Resubmit using Actual data on a project by project basis, including the number of utility poles  
19 replaced in each project area for 1999 through 2008, cost of these pole replacements, total  
20 the number of poles and associated costs so that compliance with the Plan of Action and  
21 Project Status can objectively be made.  
22 c. Resubmit using Actual data on a project by project basis, including the number of  
23 underground cable-feet replaced in each project area for 1999 through 2008, cost of these  
24 cable replacements, total the number of cable-feet and associated costs so that compliance  
25 with the Plan of Action and Project Status can objectively be made.

26 It is recommended that the ACC Staff:

- 27 a. Review the new data to be submitted by UNSE for accuracy and completeness.  
28 b. Ensure full compliance with the entire ACC Staff – Citizens Settlement Agreement.

29 It is recommended that RUCO:

- 30 a. Review the new data to be submitted by UNSE for cost realism.  
31  
32  
33  
34

35 <sup>55</sup> Magruder Supplemental Testimony, pages 8 to 30.

1 **Exhibit M-F**

2  
3 **Data for Defective Utility Pole Replacement Projects**

4 This Exhibit contains data reported by the Citizens approved Plan of Action and data reported in  
5 the UNSE Response Exhibit 1 (no title). The table formats that follow are identical for each project.  
6 Each project is briefly described in terms of its Project Number and title, the total number of defective  
7 utility poles in the Citizens Plan of Action listed to be replaced. As each project has a geographic  
8 location. Without a detailed map of feeder circuits, using data obtained from data requests in this  
9 case, outages were identified by substation and a feeder circuit and were plotted on a map. Using the  
10 title associated with each Defective Utility Pole Plan, from Citizens Plan of Action, feeder circuits were  
11 estimated and associated substation determined. This information was included in the project  
12 description. The budget data and schedule for each Project were provided in the Plan of Action.  
13 Using this financial data, the number of defective utility poles to be replaced was estimated for each  
14 year between 1999 and 2003.

15 Additional information provided included the number of poles documented to be replaced, number  
16 of actual poles documented as being replaced, and the percentage of poles in the Project that have  
17 been actually replaced.

18 The following nine projects, totaling some 1,020 poles, as shown below, **have NO documented**  
19 **pole replacements** :

20 Project 8 – Beatus Estates Subdivision, Nogales (150 utility poles)

21 Project 10 – Chula Vista Subdivision, Nogales (50 poles)

22 Project 11 – Activate Circuit 6246, Southwest and West in City of Nogales (100 poles)

23 Project 12 – Circuit 6241, Mariposa Industrial Area, Nogales (50 poles)

24 Project 13 – Meadow Hills (north) Subdivision, Nogales (75 poles)

25 Project 14 – Meadow Hills (south) Subdivision, Nogales (75 poles)

26 Project 15 – 115 kV Transmission Line between Tucson and Nogales (20 poles)

27 Project 18 – Rio Rico Highway Crossings, Rio Rico (0 poles)

28 Project 20 – Flux Canyon Area, east Circuit CZ-8203, east County (500 poles)

29 Six of other 11 projects with another 1,250 poles, showed some progress, although less than 50%  
30 complete, with lowest documented progress including:

31 Project 7 – Downtown Nogales, Northeast (300 poles) 6.7%

32 Project 6 – Downtown Nogales, Southwest (500 poles) 18.2%

33 Project 1 – Nogales West area (75 poles) 34.7%

34 Project 4 – Downtown Nogales, Southeast (300 poles) 34.7%

Project 2 – Nogales West (north) area (75 poles)	37.3%
Project 5 – Downtown Nogales, Northwest (300 poles)	38.3%

The information in this table for each project, include data reported by Citizens and then data reported in the UNSE Response.

In the Data Reported by Citizens, all data are from the Citizens Plan of Action:

- a. First Column, "Total Number of Poles for Project,"<sup>56</sup> this is the number of poles that Citizens reported needed to be replaced in the Project.
- b. Second Column, "Poles Replaced in 1999"<sup>57</sup>
- c. Third Column, "Actual Poles Replaced to Date (1999)"<sup>58</sup> This is a 1999 snapshot of the progress to date and is the last "Actual Number" pole replacement data received.
- d. Fourth Column, "Project X Budget" for 1999, 2000, 2001, 2002, and 2003 (first five lower columns)<sup>59</sup> and "Budget for Project"<sup>60</sup> in the sixth lower column

In the Data Reported in the UNSE Response, Exhibit 1:

- a. First Column, "Actual Number of Poles Replaced in Area,"<sup>61</sup> was not reported in any project.
- b. Second Column, "Estimated number of (defective) poles in project area," is exactly the same are reported by Citizens Plan of Action without the word "estimated"<sup>62</sup>
- c. Third Column, "Estimated Number of poles needed to be replaced"<sup>63</sup>
- d. Fourth Column, "Project X Expenditures" for 199, 2000, 2001, 2002, and 2003 (first five lower columns) and "Total Expended on Project" in the sixth lower column. The UNSE Response did not include the cost for any year or total for any project.<sup>64</sup>

<sup>56</sup> Exhibit M-D, page 2 of 6, second column.

<sup>57</sup> *Ibid.* page 6 of 6, third column.

<sup>58</sup> *Ibid.* page 6 of 6, fourth column, under the Progress to Date, is labeled "Actual Number"

<sup>59</sup> *Ibid.* page 2 of 6, fourth to seventh columns.

<sup>60</sup> This is the total of the years 1999 through 2003.

<sup>61</sup> The UNSE Response did not report any actual data, only an estimate of poles in the area (same as reported by Citizens in upper part of this table in first column).

<sup>62</sup> Same as Exhibit M-D, on page 2 of 6, second column. UNSE might be confused with page 6, for "Pole Replacements – Progress to Date" where data through 1999 were reported. The "estimated number" here is the number of poles in that project but is the plan had estimated on the date of the snapshot. There are NO other "estimated" numbers of poles in any of the Citizens documentation. The overall progress for these 20 projects (using page 6) is 5 projects that used more poles than planned, 5 projects that used less than planned, 1 project used the number planned, and 6 projects that should have replaced poles had NO actual poles replaced, and the final 2 projects had replaced no poles as planned.

<sup>63</sup> This was determined based on the data in UNSE Response Exhibit 1, fourth column, "Estimated # of Poles Needed to be Replaced" from which was subtracted the number of poles Actually Replaced.

<sup>64</sup> UNSE included "Year Completed" without any basis in its Exhibit 1 and indicated in either 1999 or 2000.

# Pole Project 1

## Nogales West area - Utility Pole Replacements - 75 total poles<sup>35</sup>

This area covers the western part of Nogales on the "West Nogales" feeder circuit (probably 6241 from the Valencia Substation in Nogales. Project 1 is planned to replace 100% of the planned 75 poles in 1999 based on the funding profile.

Number of poles documented to be replaced = 75

Actual poles documented as being replaced = 26

Percent of poles in project replaced =  $26/75 = 34.7\%$

Number of poles that are not documented as being replaced =  $36 - 26 = 10$  poles

Number of remaining poles remaining to be replaced =  $75 - 26 = 49$

Cost per pole replaced =  $\$300,000/75 = \$4,000$  per pole

### DATA REPORTED by CITIZENS for Pole Project 1

Total Number of Poles for Project	Poles to be replaced in 1999	Actual Poles replaced to date (1999)	Project 1 Budget					Budget for Project
			1999	2000	2001	2002	2003	
75	75	26	\$300,000	0	0	0	0	\$300,000

### DATA REPORTED in UNSE Response for Pole Project 1

Actual Number Poles Replaced in area <sup>66</sup>	Estimated number of (defective) poles in project area <sup>67</sup>	Estimated Number of poles needed to be replaced	Project 1 Expenditures <sup>68</sup>					Total Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	75	36	Reported complete	0	0	0	0	Not reported

<sup>65</sup> Citizens Pole and Cable Replacement Plan, found in Exhibit M-D, page 2, 2<sup>nd</sup> column.

<sup>66</sup> UNSE Response, Exhibit 1, The ACTUAL number of poles in these 20 subdivisions, each having hundreds of homes and businesses is considerably higher than any numbers reported by UNSE. The only conclusion is that UNSE is reporting the estimated number of defective poles in the project area.

<sup>67</sup> *Ibid.*, has a column labeled "# of Poles (Estimated # of Poles in Area)". This is NOT the actual number of poles in these subdivisions, each having hundreds of homes and businesses. The only conclusion is that UNSE is reporting the ESTIMATED number of defective poles in the project area.

<sup>68</sup> UNSE did not report any expenditure data, not total spent or annual expenses from 1999 to 2003.

**Pole Project 2**

**Nogales West north area - Utility Pole Replacements - 75 total poles**

This area covers the north western part of Nogales on the "North Nogales" feeder circuit VA-6242 from the Valencia substation in Nogales. Project 2 is planned to replace 42.9% or  $(90/210 * 75 =) 32$  poles) of its total (75) in 1999 and then 10 or 11 poles per year for the next four years (2000-2003) based on the funding profile.

**Number of poles documented to be replaced = 75**

**Actual poles documented as being replaced = 28**

**Percent of poles in project replaced =  $28/75 = 37.3\%$**

**Number of poles that are not documented as being replaced =  $44 - 28 = 16$  poles**

**Number of remaining poles remaining to be replaced =  $75 - 28 = 47$**

**Cost per pole replaced =  $\$25,000/300 = \$2,500$  per pole**

**DATA REPORTED by CITIZENS for Pole Project 2**

Total Number of Poles for Project	Poles to be replaced in 1999	Actual Poles replaced to date (1999)	Project 2 Budget					Budget for Project
			1999	2000	2001	2002	2003	
75	15	28	\$90,000	\$30,000	\$30,000	\$30,000	\$30,000	\$210,000

**DATA REPORTED in UNSE Response for Pole Project 2**

Actual Number Poles Replaced in area	Estimated number of (defective) poles in project area	Estimated Number of poles needed to be replaced	Project 2 Expenditures					Total Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	75	44	Reported complete	Not reported	Not reported	Not reported	Not reported	Not reported

**Pole Project 3**

**Reconductor Mariposa Industrial Park in Nogales – 75 total poles**

The newest industrial area in Nogales is the Mariposa Industrial Park that is serviced by the Valencia substation on Grand Avenue probably the SW Nogales feeder circuit VA-6246. Project 3 is planned to reconductor 54.4% (equivalent to 41 poles) of its total 75 poles in 1999 and reconductor the remaining 45.6% or (equivalent to 34 poles) in 2000 based on the funding profile.

**Number of poles documented to be replaced = 75 [see footnote below]**

**Actual poles documented as being replaced = 1**

**Percent of poles in project replaced = 1/1 = 100%**

**Number of poles that are documented as being replaced = 1**

**Number of poles that are not documented as being replaced = 16 – 1 = 15 poles**

**Number of remaining poles remaining to be replaced = 75 – 1 = 74**

**Cost per pole replaced = \$165,000/75 = \$2,200**

**DATA REPORTED by CITIZENS for Pole Project 3**

Total Number of Poles for Project	Poles to be replaced in 1999	Actual Poles replaced to date (1999)	Project 3 Budget					Budget for Project
			1999	2000	2001	2002	2003	
75	1 <sup>69</sup>	1 <sup>70</sup>	\$90,000	\$75,000	0	0	0	\$165,000

**DATA REPORTED in UNSE Response for Pole Project 3**

Actual Number Poles Replaced in area	Estimated number of (defective) poles in project area	Estimated Number of poles needed to be replaced	Project 3 Expenditures					Total Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	75	16	Reported complete	Not reported	Not reported	Not reported	Not reported	Not reported

<sup>69</sup> Exhibit M-D, Citizens Pole and Cable Replacement Plan (1999-2003). This project is to replace the conductor. Initially, it appears, Citizens projected 75 poles to accomplish this task during 1999 and 2000 on page 2. In its Progress to Date (1999) on page 6, the estimate changed to 1 and the actual number replaced as one. Since reconductor can be accomplished without replacing any poles, it appears Citizens reduced to 1 pole for Project No. 3.

<sup>70</sup> *Ibid.*

**Pole Project 4**

**Downtown Nogales - Southeast Utility Pole Replacements - 300 total poles**

This area covers the downtown Nogales on the "Downtown Southeast" feeder circuits VA-6245 or VA-6247 from the Valencia Substation. Project 4 is planned to replace 54.4% (163 poles) of its total (300) in 1999 and the remaining 137 poles in 2000 based on the funding profile.

**Number of poles documented to be replaced = 300**

**Actual poles documented as being replaced = 74**

**Percent of poles in project replaced =  $74/300 = 34.7\%$**

**Number of poles that are not documented as being replaced =  $79 - 74 = 5$  poles**

**Number of remaining poles remaining to be replaced =  $300 - 74 = 226$**

**Cost per pole replaced =  $\$840,000/300 = \$2,800$  per pole**

**DATA REPORTED by CITIZENS for Pole Project 4**

Total Number of Poles for Project	Poles to be replaced in 1999	Actual Poles replaced to date (1999)	Project 4 Budget					Budget for Project
			1999	2000	2001	2002	2003	
300	60	74	\$360,000	\$120,000	\$120,000	\$120,000	\$120,000	\$840,000

**DATA REPORTED in UNSE Response for Pole Project 4**

Actual Number Poles Replaced in area	Estimated number of (defective) poles in project area	Estimated Number of poles needed to be replaced	Project 4 Expenditures					Total Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	300	79	Reported complete	Not reported	Not reported	Not reported	Not reported	Not reported



**Pole Project 5**

**Downtown Nogales - Northwest Utility Pole Replacements - 300 total poles**

This area covers the downtown Nogales on the "Downtown Northwest" feeder circuit VA-6245 or VA-6247 from the Valencia substation. Project 5 is planned to replace 44.2% or  $(380/860 * 300 =)$  132 poles of its total (300) in 1999 and the remaining 178 poles at 44 or 45 poles per year in 2000, 2001, 2002 and 2003 based on the funding profile.

**Number of poles documented to be replaced = 300**

**Actual poles documented as being replaced = 115**

**Percent of poles in project replaced =  $115/300 =$  38.3%**

**Number of poles that are not documented as being replaced =  $161 - 115 = 46$  poles**

**Number of remaining poles remaining to be replaced =  $300 - 115 = 186$**

**Cost per pole replaced =  $\$860,000/300 = \$2,867$  per pole**

**DATA REPORTED by CITIZENS for Pole Project 5**

Total Number of Poles for Project	Poles to be replaced in 1999	Actual Poles replaced to date (1999)	Project 5 Budget					Budget for Project
			1999	2000	2001	2002	2003	
300	60	115	\$380,000	\$120,000	\$120,000	\$120,000	\$120,000	\$860,000

**DATA REPORTED in UNSE Response for Project 5**

Actual Number Poles Replaced in area	Estimated number of (defective) poles in project area	Estimated Number of poles needed to be replaced	Pole Project 5 Expenditures					Total Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	300	161	Reported complete	Not reported	Not reported	Not reported	Not reported	Not reported

**Pole Project 6**

**Downtown Nogales - Southwest Utility Pole Replacements - 500 total poles**

This area covers the downtown Nogales on the "Downtown Southwest" feeder circuit VA-6245 or VA-6247 from the Valencia substation. Project 6 is planned to replace 37.2% ( $474/1274 * 500 =$ ) or 186 poles of its total (500) in 1999 and the remaining 314 poles at 78 or 79 a year in 2000, 2001, 2002, and 2003 based on the funding profile.

**Number of poles documented to be replaced = 500**

**Actual poles documented as being replaced = 91**

**Percent of poles in project replaced =  $91/500 = 18.2\%$**

**Number of poles that are not documented as being replaced =  $129 - 91 = 48$  poles**

**Number of remaining poles remaining to be replaced =  $300 - 91 = 209$**

**Cost per pole replaced =  $\$1,274,000/500 = \$2,548$  per pole**

DATA REPORTED by CITIZENS for Pole Project 6								
Total Number of Poles for Project	Poles to be replaced in 1999	Actual Poles replaced to date (1999)	Project 6 Budget					
			1999	2000	2001	2002	2003	Budget for Project
500	100	91	\$474,000	\$200,000	\$200,000	\$200,000	\$200,000	\$1,274,000
DATA REPORTED in UNSE Response for Project 6								
Actual Number Poles Replaced in area	Estimated number of (defective ) poles in project area	Estimated Number of poles needed to be replaced	Pole Project 6 Expenditures					
			1999	2000	2001	2002	2003	Total Expended on Project
Not reported by UNSE	500	129	Reported complete	Not reported	Not reported	Not reported	Not reported	Not reported

**Pole Project 7**

**Downtown Nogales - Northeast Utility Pole Replacements - 300 total poles**

This area covers the downtown Nogales on the "Downtown Northeast" feeder circuit VA-6245 or VA-6247 from the Valencia substation. Project 7 is planned to replace 44.2% or  $(380/860 * 300 =)$  132 poles of its total (300) in 1999 and the remaining 168 poles in 2000 based on the funding profile.

**Number of poles documented to be replaced = 300**

**Actual poles documented as being replaced = 20**

**Percent of poles in project replaced =  $20/300 =$  6.7%**

**Number of poles that are not documented as being replaced =  $55 - 20 = 35$  poles**

**Number of remaining poles remaining to be replaced =  $300 - 20 = 280$**

**Cost per pole replaced =  $\$860,000/300 = \$2,867$  per pole**

**DATA REPORTED by CITIZENS for Pole Project 7**

Total Number of Poles for Project	Poles to be replaced in 1999	Actual Poles replaced to date (1999)	Project 7 Budget					Budget for Project
			1999	2000	2001	2002	2003	
300	60	20	\$380,000	\$120,000	\$120,000	\$120,000	\$120,000	\$860,000

**DATA REPORTED in UNSE Response for Pole Project 7**

Actual Number Poles Replaced in area	Estimated number of (defective) poles in project area	Estimated Number of poles needed to be replaced	Project 7 Expenditures					Total Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	300	55	Reported complete	Not reported	Not reported	Not reported	Not reported	Not reported

**Pole Project 8**

**Beatus Estates Subdivision Utility Pole Replacements – 150 total poles**

The Beatus Estates subdivision is a spread-out community in the City of Nogales on the East Nogales feeder circuit VA-6243 from the Valencia substation. Project 8 is planned to replace 20% (180/420 \* 150 =) or 62 of its total (150) in 1999 and the remaining 88 poles at 22 per year in 2000, 2001, 2002, and 2003 based on the funding profile. Project 8 for the Beatus Estates Subdivision has not replaced any utility poles. Project 8 does not appear to have been started.

**Number of poles documented to be replaced = 150**

**Actual poles documented as being replaced = 0**

**Percent of poles in project replaced = 0/150 = 0.0%**

**Number of poles that are not documented as being replaced = 0 – 0 = 0 poles**

**Number of remaining poles remaining to be replaced = 150 – 0 = 150**

**Cost per pole replaced = \$420,000/150 = \$2,800 per pole**

**DATA REPORTED by CITIZENS for Pole Project 8**

Total Number of Poles for Project	Poles to be replaced in 1999	Actual Poles replaced to date (1999)	Project 8 Budget					Budget for Project
			1999	2000	2001	2002	2003	
150	0	0	\$180,000	\$60,000	\$60,000	\$60,000	\$60,000	\$420,000

**DATA REPORTED in UNSE Response for Project 8**

Actual Number Poles Replaced in area	Estimated number of (defective) poles in project area	Estimated Number of poles needed to be replaced	Pole Project 8 Expenditures					Total Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	150	0	Reported complete	Not reported	Not reported	Not reported	Not reported	Not reported

**Pole Project 9**

**Valle Verde Subdivision Utility Pole Replacements – 300 total poles**

The Valle Verde subdivision is an important fairly dense community in the City of Nogales that is serviced by the Valencia substation probably on the North feeder circuit VA-6242. Project 9 is planned to replace 20% ( $180/420 * 150 =$ ) or 62 of its total (150) in 1999 and the remaining 88 poles at 22 per year in 2000, 2001, 2002, and 2003 based on the funding profile.

**Number of poles documented to be replaced = 150**

**Actual poles documented as being replaced = 106**

**Percent of poles in project replaced =  $106/150 =$  70.6%**

**Number of poles that are not documented as being replaced =  $156 - 106 = 50$  poles**

**Number of remaining poles remaining to be replaced =  $300 - 106 = 194$**

**Cost per pole replaced =  $\$420,000/150 = \$2,800$  per pole**

**DATA REPORTED by CITIZENS for Pole Project 9**

Total Number of Poles for Project	Poles to be replaced in 1999	Actual Poles replaced to date (1999)	Project 9 Budget					Budget for Project
			1999	2000	2001	2002	2003	
150	30	106	\$180,000	\$60,000	\$60,000	\$60,000	\$60,000	\$420,000

**DATA REPORTED in UNSE Response for Project 9**

Actual Number Poles Replaced in area	Estimated number of (defective) poles in project area	Estimated Number of poles needed to be replaced	Pole Project 9 Expenditures					Total Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	300	156	Reported complete	Not reported	Not reported	Not reported	Not reported	Not reported

**Pole Project 10**

**Chula Vista Subdivision – 50 total poles to be replaced**

The Chula Vista subdivision is an important and large community just north of the City of Nogales boundary that is serviced by the Valencia substation probably on the North Nogales feeder circuit VA-6242. Project 10 is planned to replace 42.8% ( $60/140 * 50 =$ ) or 21 poles of its total (50) in 1999 and the remaining 39 poles at about 10 per year in 2000, 2001, 2002, and 2003 based on the funding profile. Project 10 for the Chula Vista subdivision did not replaced any utility poles. Project 10 does not appear to have been started.

Number of poles documented to be replaced = 50

Actual poles documented as being replaced = 0

Percent of poles in project replaced =  $0/50 =$  0.0%

Number of poles that are not documented as being replaced =  $0 - 0 = 0$  poles

Number of remaining poles remaining to be replaced =  $50 - 0 = 50$

Cost per pole replaced =  $\$140,000/50 = \$2,800$  per pole

**DATA REPORTED by CITIZENS for Pole Project 10**

Total Number of Poles for Project	Poles to be replaced in 1999	Actual Poles replaced to date (1999)	Project 10 Budget					
			1999	2000	2001	2002	2003	Budget for Project
50	2	0	\$60,000	\$20,000	\$20,000	\$20,000	\$20,000	\$140,000

**DATA REPORTED in UNSE Response for Pole Project 10**

Actual Number Poles Replaced in area	Estimated number of (defective) poles in project area	Estimated Number of poles needed to be replaced	Project 10 Expenditures					
			1999	2000	2001	2002	2003	Total Expended on Project
Not reported by UNSE	50	0	Not reported	Reported complete	Not reported	Not reported	Not reported	Not reported

**Pole Project 11**

**Activate Circuit 6246 (s/b 6246) – 100 total poles**

The Southwest Nogales feeder circuit VA-6246 from the Valencia substation shares a pole with the West Nogales feeder circuit VA-6241. The Citizens Plan of Action clearly stated:

"This Circuit shares a pole with Circuit 6241 (see Project 12). Citizens can reduce the stress on the poles and eliminate potential outages due to structural failures. Activation of Circuit 6246 will allow Citizens to split the load on the west-side of Nogales, and increase the ability to back feed 6241 in the event of damage."<sup>71</sup>

Project 11 is planned to replace 42.9% ( $180/420 * 100 =$ ) or 43 poles of its total (100) in 1999 and the remaining 67 poles at 7 to 8 per year in 2000, 2001, 2002, and 2003 based on the funding profile. Project 11 has not installed any utility poles necessary to activate Circuit 6246. Project 11 does not appear to have been started.

**Number of poles documented to be replaced = 100**

**Actual poles documented as being replaced = 0**

**Percent of poles in project replaced =  $0/100 =$  0.0%**

Number of poles that are not documented as being replaced =  $74 - 1 = 15$  poles

Number of remaining poles remaining to be replaced =  $300 - 74 = 226$

Cost per pole replaced =  $\$320,000/100 = \$4,200$  per pole

**DATA REPORTED by CITIZENS for Pole Project 11**

Total Number of Poles for Project	Poles to be replaced in 1999	Actual Poles replaced to date (1999)	Project 11 Budget					Budget for Project
			1999	2000	2001	2002	2003	
100	0	0	\$180,000	\$60,000	\$60,000	\$60,000	\$60,000	\$420,000

**DATA REPORTED in UNSE Response for Project 11**

Actual Number Poles Replaced in area	Estimated number of (defective) poles in project area	Estimated Number of poles needed to be replaced	Pole Project 11 Expenditures					Total Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	100	0	Not reported	Reported complete	Not reported	Not reported	Not reported	Not reported

<sup>71</sup> Exhibit M-E, page 3 of 4.

**Pole Project 12**  
**Circuit 6241 – 50 total poles**

This new West Nogales feeder circuit VA-6241 in the Mariposa Industrial area. This circuit provides power to the Carondelet Holy Cross Hospital to services most of the City of Nogales and the county: The Plan of Action stated:

"Some of the pole replacements involve the relocation of circuits, as in the case of Circuits 6241 and 6246. Circuit 6241 feeds the west-side of Nogales (and feeds the hospital). Circuit 6241 shares a pole with Circuit 6246. By relocating a portion of 6241, Citizens can reduce the stress on the poles and eliminate potential outages due to structural failures. Activation of Circuit 6246 will allow Citizens to split the load on the west-side of Nogales, and increase the ability to back feed 6241 in the event of damage."<sup>72</sup>

Project 12 is planned to replace 42.9% ( $60/140 * 50 =$ ) or 20 poles of its total (50) in 1999 and the remaining 30 poles at 7 or 8 poles per year in 2000, 2001, 2002, and 2003 based on the funding profile. Project 12 has not installed any utility poles necessary for Circuit 6241. Project 11 does not appear to have been started.

Number of poles documented to be replaced = 50

Actual poles documented as being replaced = 0

Percent of poles in project replaced =  $0/50 =$  0.0%

Number of poles that are not documented as being replaced =  $0 - 0 = 0$  poles

Number of remaining poles remaining to be replaced =  $50 - 0 = 50$

Cost per pole replaced =  $\$140,000/50 = \$2,000$  per pole

**DATA REPORTED by CITIZENS for Pole Project 12**

Total Number of Poles for Project	Poles to be replaced in 1999	Actual Poles replaced to date (1999)	Project 12 Budget					Budget for Project
			1999	2000	2001	2002	2003	
50	10	0	\$60,000	\$20,000	\$20,000	\$20,000	\$20,000	\$140,000

**DATA REPORTED in UNSE Response for Project 12**

Actual Number Poles Replaced in area	Estimated number of (defective) poles in project area	Estimated Number of poles needed to be replaced	Pole Project 12 Expenditures					Total Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	50	0	Reported complete	Not reported	Not reported	Not reported	Not reported	Not reported

<sup>72</sup> Exhibit M-3, page 3 of 4.



**Pole Project 13**

**Meadow Hills North Subdivision Utility Pole Replacements – 75 total poles**

Meadow Hills is a fairly new, large subdivision in the City of Nogales served by the Valencia substation on the North Nogales feeder circuit VA-6241. Several thousand people live in this development. Project 13 is planned to replace 42.8% ( $90/210 \times 75 =$ ) or 32 poles of its total (75) in 1999 and the remaining 43 poles at about 11 each year in 2000, 2001, 2002, and 2003 based on the funding profile. Project 13 for the Meadow Hills North subdivision did not replaced any utility poles. Project 13 does not appear to have been started.

Number of poles documented to be replaced = 75

Actual poles documented as being replaced = 0

Percent of poles in project replaced =  $0/75 = 0.0\%$

Number of poles that are not documented as being replaced =  $15 - 0 = 15$  poles

Number of remaining poles remaining to be replaced =  $75 - 0 = 75$

Cost per pole replaced =  $\$210,000/75 = \$2,800$  per pole

**DATA REPORTED by CITIZENS for Project 13**

Total Number of Poles for Project	Poles to be replaced in 1999	Actual Poles replaced to date (1999)	Pole Project 13 Budget					Budget for Project
			1999	2000	2001	2002	2003	
75	15	0	\$90,000	\$30,000	\$30,000	\$30,000	\$30,000	\$210,000

**DATA REPORTED in UNSE Response for Project 13**

Actual Number Poles Replaced in area	Estimated number of (defective) poles in project area	Estimated Number of poles needed to be replaced	Pole Project 13 Expenditures					Total Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	75	5.5 <sup>73</sup>	Reported complete	Not reported	Not reported	Not reported	Not reported	Not reported

<sup>73</sup> UNSE Response, Exhibit 1, shows 11 poles replaced for Projects 13 and 14, thus 5.5 were allocated for Meadow Hills North and 5.5 for Meadow Hills South.

**Pole Project 14**

**Meadow Hills South Subdivision Utility Pole Replacements – 75 total poles**

Meadow Hills is a fairly new, large subdivision in the City of Nogales served by the Valencia substation on the North Nogales feeder circuit VA-6241. Several thousand people live in this development. Project 14 is planned to replace 42.8% ( $90/210 * 75 =$ ) or 32 poles of its total (75) in 1999 and the remaining 43 poles at about 11 each year in 2000, 2001, 2002, and 2003 based on the funding profile. Project 14 for the Meadow Hills South subdivision did not replaced any utility poles. Project 14 does not appear to have been started.

Number of poles documented to be replaced = 75

Actual poles documented as being replaced = 0

Percent of poles in project replaced =  $0/75 =$  0.0%

Number of poles that are not documented as being replaced =  $75 - 0 = 15$  poles

Number of remaining poles remaining to be replaced =  $75 - 0 = 75$

Cost per pole replaced =  $\$210,000/75 = \$2,800$  per pole

**DATA REPORTED by CITIZENS for Pole Project 14**

Total Number of Poles for Project	Poles to be replaced in 1999	Actual Poles replaced to date (1999)	Project 14 Budget					
			1999	2000	2001	2002	2003	Budget for Project
75	15	0	\$90,000	\$30,000	\$30,000	\$30,000	\$30,000	\$210,000

**DATA REPORTED in UNSE Response for Pole Project 14**

Actual Number Poles Replaced in area	Estimated number of (defective) poles in project area	Estimated Number of poles needed to be replaced	Project 14 Expenditures					
			1999	2000	2001	2002	2003	Total Expended on Project
Not reported by UNSE	75	5.5 <sup>74</sup>	Reported complete	Not reported	Not reported	Not reported	Not reported	Not reported

<sup>74</sup> UNSE Response, Exhibit 1, shows 11 poles replaced for Projects 13 and 14, thus 5.5 were allocated for Meadow Hills North and 5.5 for Meadow Hills South.

**Pole Project 15**

**115 kV Transmission Line Replacement Utility Poles – 20 total poles**

This pole replacement project is for 20 poles on the 115 kV transmission line between the Nogales Tap in south Tucson and all four substations in Santa Cruz County. Project 15 is planned to replace 100% of its total 20 poles in 1999 based on the funding profile. Project 15 will replace poles and/or H-frames on the existing 115 kV Transmission Line. No transmission line poles were replaced. Project 15 does not appear to have been started.

Number of poles documented to be replaced = 20

Actual poles documented as being replaced = 0

Percent of poles in project replaced =  $0/20 = 0.0\%$

Number of poles that are not documented as being replaced =  $0 - 0 = 0$  poles

Number of remaining poles remaining to be replaced =  $20 - 0 = 20$

Cost per pole replaced =  $\$320,000/20 = \$16,000$  per pole

**DATA REPORTED by CITIZENS for Pole Project 15**

Total Number of Poles for Project	Poles to be replaced in 1999	Actual Poles replaced to date (1999)	Project 15 Budget					Budget for Project
			1999	2000	2001	2002	2003	
20	2	0	\$320,000	0	0	0	0	\$320,000

**DATA REPORTED in UNSE Response for Pole Project 15**

Actual Number Poles Replaced in area	Estimated number of (defective) poles in project area	Estimated Number of poles needed to be replaced	Project 15 Expenditures					Total Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	20	0	Reported complete	Not reported	Not reported	Not reported	Not reported	Not reported

**Pole Project 16**

**Highway 82 – Utility Pole Replacements – 250 total poles**

This area is served by the Sonoita substation probably on the Southeast Rio Rico, East County feeder circuit SA-6206. The Citizens Plan of Action stated:

"A major portion of the pole replacements will be done along Highway 82 and into the mountains in the Locheil area. This loop will allow Citizens to sectionalize and isolate damaged portions of line, thereby keeping the highest number of customers in service."<sup>75</sup>

Project 16 is planned to replace 36.4% or  $(275/755 * 250 =)$  or 91 poles of its total (250) in 1999 and the remaining 149 poles at 37 or 38 poles per year in 2000, 2001, 2002, and 2003 based on the funding profile.

**Number of poles documented to be replaced = 250**

**Actual poles documented as being replaced = 148**

**Percent of poles in project replaced =  $148/250 =$  59.2%**

**Number of poles that are not documented as being replaced =  $219 - 148 = 71$  poles**

**Number of remaining poles remaining to be replaced =  $250 - 148 = 102$**

**Cost per pole replaced =  $\$755,000/250 = \$3,200$  per pole**

**DATA REPORTED by CITIZENS for Pole Project 16**

Total Number of Poles for Project	Poles to be replaced in 1999	Actual Poles replaced to date (1999)	Project 16 Budget					
			1999	2000	2001	2002	2003	Budget for Project
250	60	148	\$275,000	\$120,000	\$120,000	\$120,000	\$120,000	\$755,000

**DATA REPORTED in UNSE Response for Project 16**

Actual Number Poles Replaced in area	Estimated number of (defective) poles in project area	Estimated Number of poles needed to be replaced	Pole Project 16 Expenditures					
			1999	2000	2001	2002	2003	Total Expended on Project
Not reported by UNSE	250	219	Reported complete	Not reported	Not reported	Not reported	Not reported	Not reported

<sup>75</sup> Exhibit M-E, page 3 of 4.

**Pole Project 17**

**Old Tucson Road Utility Pole Replacements – 10 total poles to be replaced**

The Old Tucson Road goes from Grand Avenue in Nogales to Ruby Road in Rio Rico probably served by the Valencia substation on the North Nogales feeder circuit SA-6242. Project 17 is planned to replace 100% or all 10 poles in 1999 based on the funding profile.

**Number of poles documented to be replaced = 10**

**Actual poles documented as being replaced = 9**

**Percent of poles in project replaced =  $9/10 = 90.0\%$**

**Number of poles that are not documented as being replaced =  $10 - 9 = 10$  poles**

**Number of remaining poles remaining to be replaced =  $10 - 9 = 1$**

**Cost per pole replaced =  $\$25,000/300 = \$2,500$  per pole**

**DATA REPORTED by CITIZENS for Pole Project 17**

Total Number of Poles for Project	Poles to be replaced in 1999	Actual Poles replaced to date (1999)	Project 17 Budget					Budget for Project
			1999	2000	2001	2002	2003	
10	10	9	\$25,000	0	0	0	0	\$25,000

**DATA REPORTED in UNSE Response for Pole Project 17**

Actual Number Poles Replaced in area	Estimated number of (defective) poles in project area	Estimated Number of poles needed to be replaced	Project 17 Expenditures					Total Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	10	18	Reported complete	Not reported	Not reported	Not reported	Not reported	Not reported

**Pole Project 18**

**Rio Rico Highway Crossings Utility Pole Replacements - 0 total poles**

Project 18 is planned to be completed in 1999 based on the funding profile. There are three feeder circuits that might cross Interstate 19; from Caññez substation the Northwest feeder circuit CZ-8202 and Sonoita substation the Midwest Rio Rico feeder circuit SA-6204. The UNSE Response only indicated this project was reported complete in 1999. Actual completion is unknown.

Number of poles that are documented as to be replaced = none

**DATA REPORTED by CITIZENS for Pole Project 18**

Total Number of Poles for Project	Poles to be replaced in 1999	Actual Poles replaced to date (1999)	Project 18 Budget					Budget for Project
			1999	2000	2001	2002	2003	
none	none	none	\$126,000	0	0	0	0	\$128,000

**DATA REPORTED in UNSE Response for Pole Project 18**

Actual Number Poles Replaced in area	Estimated number of (defective) poles in project area	Estimated Number of poles needed to be replaced	Project 18 Expenditures					Total Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	300	79	Reported complete	Not reported	Not reported	Not reported	Not reported	Not reported

**Pole Project 19**

**Rio Rico Industrial Park Utility Pole Replacements – 25 total poles**

The Rio Rico Industrial Park contains over 25 produce packing plants which comprise the largest business in Santa Cruz County. Further, the Nogales International Treatment Plant is in this complex which is the largest single electricity customer in the County. The Sonoita substation services this area on the Rio Rico Industrial Plant feeder circuit SA-6207. Project 19 was planned to be completed in 1999 based on the funding profile.

**Number of poles documented to be replaced = 25**

**Actual poles documented as being replaced = 16**

**Percent of poles in project replaced =  $16/25 = 64\%$**

**Number of poles that are not documented as being replaced =  $25 - 16 = 9$  poles**

**Number of remaining poles remaining to be replaced =  $25 - 16 = 9$**

**Cost per pole replaced =  $\$100,000/25 = \$4,000$  per pole**

**DATA REPORTED by CITIZENS for Pole Project 19**

Total Number of Poles for Project	Poles to be replaced in 1999	Actual Poles replaced to date (1999)	Project 19 Budget					Budget for Project
			1999	2000	2001	2002	2003	
25	1	16	\$100,000	0	0	0	0	\$100,000

**DATA REPORTED in UNSE Response for Pole Project 19**

Actual Number Poles Replaced in area	Estimated number of (defective) poles in project area	Estimated Number of poles needed to be replaced	Project 19 Expenditures					Total Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	25	21	Reported complete	Not reported	Not reported	Not reported	Not reported	Not reported

**Pole Project 20**

**Flux Canyon Area Utility Pole Replacements – 500 total poles**

Flux Canyon originates to the west of SR 82 and crosses the highway south of the Town of Patagonia.

This is the eastern part of Circuit CZ-8203 which was reported by the Engineering Report<sup>76</sup> included in testimony of Mr. Steve Taylor<sup>77</sup> as the worst performing feeder line for the past two years in the UNS Electric service area, including Mohave County.

Further, Circuit CZ-8203 is a long radial line, going over 100 miles from the Cañez (North Rio Rico) Substation<sup>78</sup>, east through Rio Rico homes, Pendleton Drive, east to Lake Patagonia, crossing SR 82, going up Flux Canyon, past several small mine operations, through San Rafael Valley and several wineries, past the village of Locheil, across the US-Mexican border, to the Sonora village of Santa Cruz. I have had several complaints reported to me and also to the ACC concerning the performance along Circuit CZ-8203, which averaged 141 minutes of outage per customer in 2005 and 125 hours per customer in 2006.<sup>79</sup>

One winery owner reported over 180 hours of outage in the past year using the automated diesel generator logger when there was no power. I tried to report this outage during the evidentiary hearings (proposed Magruder Exhibit M-27- not entered into the record) which was

<sup>76</sup> Engineering Report, Staff's Assessment of: Quality of Service, Used and Useful Capital Assets, Construction Work in Progress Capital Assets, Black Mountain Generation Station, by Steve Taylor, of 28 June 2007, hereafter "**Staff Engineering Report**".

<sup>77</sup> Direct Testimony of Steve Taylor, Utility Engineer, Utilities Division, Arizona Corporation Commission, of 28 June 2007

<sup>78</sup> Information received seven years ago while on the Joint Santa Cruz County/City of Nogales Energy Commission, showed a feeder circuit "SE Rio Rico/East County" feeder circuit coming from the Sonoita substation while the Staff Engineering Report and the designation "C" states from the Canez substation.

<sup>79</sup> Staff Engineering Report, pages 6 and 7 states:

"Canez Feeder C-8203 [CZ-8203] serving N. Pendleton Dr (Santa Cruz County) is a very long (approximately 100 miles) 13 kV distribution feeder serving residential and light commercial load in a partially mountainous area between Tucson and Nogales and east of Interstate 19. Staff inspected portions of the feeder on May 3 1, 2007 with UNS Electric personnel and observed that problems were being regularly addressed with the addition of lightening arresters in selected locations, replacement of wood poles with steel poles in unstable soil areas along the Santa Cruz river, cross arm installation at selected locations to increase phase spacing, and fairly aggressive and recent tree trimming in the high vegetation areas close to the Santa Cruz river. Additional action being considered includes transferring some parts of this feeder to other feeders to reduce the length of line exposed and adding field reclosures (one presently exists) to isolate areas that have faulted in lieu of larger segments of the feeder. Since the area has topography which tends to make it subject to summer thunderstorms with resultant lightening and wind impacts and the overhead line exposure is high (about 50 percent of the 100 mile line is overhead), the feeder will likely remain as one which will require continued attention in the future. Staff was concerned that voltage degradation might be a problem at some locations on this feeder due to its long length; however, UNS Electric advised that maintaining the proper voltage has not been a problem. Staff believes UNS Electric has taken the appropriate steps to minimize customer outages as evidenced by the work of the last few years and is prepared to continue improvements of this feeder."



deemed, after an objection, as being too late since it was not in my pre-filed testimony. I had received by email early during those hearings.

The Citizens plan of action stated:

"A major portion of the pole replacements will be done along Highway 82 and into the mountains in the Locheil area. This loop will allow Citizens to sectionalize and isolate damaged portions of line; thereby keeping the highest number of customers in service."<sup>80</sup>

Project 20 planned to replace 37.5% ( $600/1600 * 500 =$ ) or 188 poles of its total (500) in 1999 and the remaining 212 poles at 43 per year in 2000, 2001, 2002, and 2003 based on the funding profile. Project 20 in the Flux Canyon area did not replace any utility poles. Project 20 does not appear to been started.

Number of poles documented to be replaced = 500

Actual poles documented as being replaced = 0

Percent of poles in project replaced =  $0/500 =$  0.0%

Number of poles that are not documented as being replaced =  $500 - 0 = 500$  poles

Number of remaining poles remaining to be replaced =  $500 - 0 = 500$

Cost per pole replaced =  $\$165,000/300 = \$2,800$  per pole

**DATA REPORTED by CITIZENS for Pole Project 20**

Total Number of Poles for Project	Poles to be replaced in 1999	Actual Poles replaced to date (1999)	Project 20 Budget					Budget for Project
			1999	2000	2001	2002	2003	
500	100	0	\$800,000	\$200,000	\$200,000	\$200,000	\$200,000	\$1,600,000

**DATA REPORTED in UNSE Response for Pole Project 20**

Actual Number Poles Replaced in area	Estimated number of (defective) poles in project area	Estimated Number of poles needed to be replaced	Project 20 Expenditures					Total Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	500	200	Not reported	Reported complete	Not reported	Not reported	Not reported	Not reported

<sup>80</sup> Exhibit M-E, page 3 of 4.

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1 **Exhibit M-G**

2  
3 **Data for Defective Underground Cable Replacement Projects**

4 This Exhibit contains data reported by the Citizens approved Plan of Action and data reported in  
5 the UNSE Response Exhibit 2 (no title). The table formats that follow are identical for each project.  
6 Each project is briefly described in terms of its Project Number and title, the total number of defective  
7 cable-feet in the Plan of Action listed to be replaced. As each project has a geographic location. The  
8 budget data and schedule for each Project were provided in the Plan of Action. Using this financial  
9 data, the number of cable-feet to be replaced was estimated for each year between 1999 and 2003.

10 Additional information provided included the number of cable-feet documented to be replaced,  
11 number of actual cable-feet documented as being replaced, and the completion percentage in the  
12 Project that have been actually replaced.

13 The following nine projects, totaling some 122,398 cable-feet, as shown below, **have NO**  
14 **documented pole replacements** :

15 Project 1 – Mariposa Manor subdivision, Nogales (7,677 cable-feet)

16 Project 2 – Monte Carlo subdivision, Nogales (12,040 cable-feet)

17 Project 4 – Preston Trailer Park, Nogales (3,633 cable-feet)

18 Project 5 – Tubac Country Club subdivision, Tubac (6,900 cable-feet)

19 Project 7 – Palo Prado subdivision (13,500 cable-feet)

20 Project 8 – Empty Saddles subdivision (8,180 cable-feet)

21 Project 9 – Mt. Hopkins Smithsonian-Harvard Observatory, Amado (52,800 cable-feet)

22 Project 10 – Meadow Hills subdivision, Nogales (15,840 cable-feet)

23 Project 20 – Rio Rico Resort (1,828 cable-feet)

24 Three other projects showed some progress, although less than 51% complete, with lowest  
25 documented progress including:

26 Project 2 – Monte Carlo subdivision (12,040 cable-feet) 20.4%

27 Project 11 – Canyon Del Oro/Vista Del Cielo area (4,500 cable-feet) 40.9%<sup>12</sup>

28 Project 3 – Rio Rico Urban 3 (28,160 cable-feet) 50.3%

29 The final cable replacement project exceeded the planned number of cable-feet

30 Project 6 – Tubac Country Club Valley subdivision (4,300 cable-feet) 169.5%

31  
32 The information in this table for each project, include data reported by Citizens and data reported  
33 in the UNSE Response.

34 In the "Data Reported by Citizens" are all from the Citizens Plan of Action:

- 1 e. First Column, "Total Number of Cable-Feet for Project,"<sup>81</sup> this is the total feet Citizens reported  
2 planned to replace in the Project.
- 3 f. Second Column, "Cable-Feet to be Replaced in 1999"<sup>82</sup>
- 4 g. Third Column, "Actual Cable-Feet Replaced to Date (1999)"<sup>83</sup> This is a 1999 snapshot of the  
5 progress to date and is the last "Actual Number" replacement data received.
- 6 h. Fourth Column, "Project X Budget" for 1999, 2000, 2001, 2002, and 2003 (first five lower  
7 columns)<sup>84</sup> and "Estimated Budget for Project"<sup>85</sup> in the sixth lower column
- 8 In the Data Reported in the UNSE Response, Exhibit 1:
- 9 a. First Column, "Actual cable-feet Replaced in area,"<sup>86</sup> was not reported in any project.
- 10 e. Second Column, "Total cable-feet to be replaced," is exactly the same are reported by  
11 Citizens Plan of Action.<sup>87</sup>
- 12 f. Third Column, "Total cable-feet remaining"<sup>88</sup>
- 13 g. Fourth Column, "Project X Expenditures" for 199, 2000, 2001, 2002, and 2003 (first five lower  
14 columns) and "Total Expended on Project" in the sixth lower column. The UNSE Response did  
15 not include the cost for any year or total for any project.<sup>89</sup>
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28 <sup>81</sup> Exhibit M-D, page 3 of 6, second column.

29 <sup>82</sup> *Ibid.* page 6 of 6, third column.

30 <sup>83</sup> *Ibid.* page 6 of 6, fourth column, under the Progress to Date, is labeled "Actual Number"

31 <sup>84</sup> *Ibid.* page 3 of 6, fourth to seventh columns.

32 <sup>85</sup> This is the total of the years 1999 through 2003.

33 <sup>86</sup> The UNSE Response included "Feet of Cable Needed" which was the same as Citizens Cable  
Replacements data total on Exhibit M-D, page 3 of 6. this is NOT the number of cable-feet replaced.

34 <sup>87</sup> Same as Exhibit M-D, on page 3 of 6, second column. UNSE might be confused with page 6, for "Cable  
Replacements – Progress to Date" where data through 1999 only were reported.

35 <sup>88</sup> This was not provided in UNSE Response Exhibit 2.

<sup>89</sup> UNSE included "Year Completed" without any basis in its Exhibit 2 and indicated in either 1999, 2000 or  
2003.

**Cable Project 1**

**Mariposa Manor Subdivision – Underground Cable Replacements – 7,677 total feet<sup>90</sup>**

This project is in the northwestern part of the City of Nogales and is planned to replace annually 20% (7,766/5 =) or 1,535 cable-feet of underground cable, of the planned total project of 7,677 feet, each year between 1999 and 2003 based on the funding profile.

**Number of cable- feet documented to be replaced = 7,677 feet**

**Actual cable-feet documented as being replaced = 0 feet**

**Percent of cable-feet in project replaced = 0/7,677 = 0.0%**

**Number of cable-feet not documented as replaced = 7,677 – 1,535 = 7,677 feet remain**

**Total remaining cost of project = \$**

**Cost per cable-foot to be replaced = \$307,080/7,677 = \$40.00 per cable-foot**

**Cost to complete Project = 6,140 \* 40 = \$307,080**

**DATA REPORTED by CITIZENS for Cable Project 1**

Total Number of Cable-Feet for Project	Cable-Feet to be replaced in 1999	Actual Cable-Feet replaced to date (1999)	Project 1 Budget					
			1999	2000	2001	2002	2003	Budget for Project
7,677	1,535	0	\$61,416	\$61,416	\$61,416	\$61,416	\$61,416	\$307,080

**DATA REPORTED in UNSE Response for Cable Project 1**

Actual cable-feet Replaced in area	Total cable-feet to be replaced	Total cable-feet remaining	Project 1 Expenditures					
			1999	2000	2001	2002	2003	Total Estimated Expended on Project
Not reported by UNSE	7,677	7,667	\$61,416 Completed	0	0	0	0	\$61,416

<sup>90</sup> Citizens Pole and Cable Replacement Plan, found in Exhibit M-D, page 2, 2<sup>nd</sup> column.

## Cable Project 2

### Monte Carlo Subdivision ☐ Underground Cable Replacements – 12,040 total feet

This project is in the northern part of Nogales and is planned to replace annually 20% or (12,040/5 =) or 2,408 cable-feet of underground cable, of the planned total project of 12,040 feet, during each year between 1999 and 2003 based on the funding profile.

Number of cable- feet documented to be replaced = 12,040 feet

Actual cable-feet documented as being replaced = 2,454 feet

Percent of cable-feet in project replaced =  $2,454/12,040 =$  20.4%

Number of cable-feet not documented as replaced =  $12,040 - 2,454 =$  9,586 feet remain

Cost per cable-foot to be replaced =  $\$481,600/12,040 =$  \$40.02 a cable-foot

Cost to complete Project =  $9,586 * 40.02 =$  \$386,632

#### DATA REPORTED by CITIZENS for Cable Project 2

Total Number of Cable-Feet for Project	Cable-Feet to be replaced in 1999	Actual Cable-Feet replaced to date (1999)	Project 2 Budget					Budget for Project
			1999	2000	2001	2002	2003	
12,040	2,408	2,454	\$96,320	\$96,320	\$96,320	\$96,320	\$96,320	\$481,600

#### DATA REPORTED in UNSE Response for Cable Project 2

Actual cable-feet Replaced in area	Total cable-feet to be replaced	Total cable-feet remaining	Project 2 Expenditures					Total Estimated Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	12,040	9,586	\$48,160 Completed	\$43,600	0	0	0	\$91,760

**Cable Project 3**

**Rio Rico Urban 3 =**

**Underground Cable Replacements = 28,160 total feet**

This project is in Rio Rico, a suburban community, north of the City of Nogales, and is planned to annually to replace 20% ( $28,160/5 =$ ) or 5,632 feet of underground cable, of the planned total project of 28,160 feet, during each year between 1999 and 2003 based on the funding profile.

**Number of cable- feet documented to be replaced = 28,160 feet**

**Actual cable-feet documented as being replaced = 14,157 feet**

**Percent of cable-feet in project replaced =  $14,157/28,160 =$  50.3%**

**Number of cable-feet not documented as replaced =  $28,160 - 14,157 =$  14,004 feet remain**

**Cost per cable-foot to be replaced =  $\$1,126,400/28,160 =$  \$40 per cable-foot**

**Cost to complete Project =  $14,004 * 40 =$  \$560,160**

**DATA REPORTED by CITIZENS for Cable Project 3**

Total Number of Cable-Feet for Project	Cable-Feet to be replaced in 1999	Actual Cable-Feet replaced to date (1999)	Project 3 Budget					Budget for Project
			1999	2000	2001	2002	2003	
28,160	5,632	14,157	\$225,280	\$225,280	\$225,280	\$225,280	\$225,280	\$1,126,400

**DATA REPORTED in UNSE Response for Cable Project 3**

Actual cable-feet Replaced in area	Total cable-feet to be replaced	Total cable-feet remaining	Project 3 Expenditures					Total Estimated Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	28,160	8,189	\$327,560 Completed	0	0	0	0	\$327,560

**Cable Project 4**  
**Preston Trailer Park -**  
**Underground Cable Replacements □ 3,633 total feet**

This project is in Rio Rico, a suburban community, north of the City of Nogales, and is planned to annually to replace 20% ( $3,633/5 =$ ) or 727 feet of underground cable, of the planned total project of 3,633 feet, during each year between 1999 and 2003 based on the funding profile.

The UNSE Response Exhibit 2 indicated Capital Expenditures of \$67,600 in 2000 and project completed in 2000. The company reported no cable replaced in 1999. Thus, there are no expenditures for 1999. If \$67,600 was expended in 2000, then, based on the Budge cost of \$35.87 per cable-foot, then 1,882 feet of the 3,633 feet in the project have been replaced.

Number of cable- feet documented to be replaced =	3,633 feet
<u>Actual cable-feet documented as being replaced</u> =	0 feet
Percent of cable-feet in project replaced = $0/130,320 =$	0.0%
Number of cable-feet not documented as replaced = $3,633 - 1,882 =$	1,751 feet remain
Cost per cable-foot to be replaced = $\$130,320/3,633 =$	\$35.87 per cable-foot
<b>Cost to complete Project = <math>(3,633 * 35.87) - 67,600 =</math></b>	<b>\$62,720</b>

**DATA REPORTED by CITIZENS for Cable Project 4**

Total Number of Cable-Feet for Project	Cable-Feet to be replaced in 1999	Actual Cable-Feet replaced to date (1999)	Project 4 Budget					Budget for Project
			1999	2000	2001	2002	2003	
3,663	727	0	\$29,064	\$29,064	\$29,064	\$29,064	\$29,064	\$130,320

**DATA REPORTED in UNSE Response for Cable Project 4**

Actual cable-feet Replaced in area	Total cable-feet to be replaced	Total cable-feet remaining	Project 4 Expenditures					Total Estimated Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	3,663	1,751	0	\$67,600 Complete	0	0	0	\$67,600



**Cable Project 5**

**Tubac Country Club Subdivision** □

**Underground Cable Replacements – 6,900 total feet**

This project is in Tubac, a village south of the Pima County line, in the Tubac Country Club subdivision. This project to annually to replace 20% ( $6,900/5 =$ ) or 1,380 feet of underground cable, of the planned total project of 6,900 feet, during each year between 1999 and 2003 based on the funding profile.

Number of cable- feet documented to be replaced = 6,900 feet  
Actual cable-feet documented as being replaced = 0 feet  
Percent of cable-feet in project replaced =  $0/6,900 =$  0.0%  
Number of cable-feet not documented as replaced =  $6,900 - 0 =$  6,900 feet remain  
Cost per cable-foot to be replaced =  $\$276,000/6,900 =$  \$40 per cable-foot  
Cost to complete Project =  $6,900 * 40 - 0 =$  \$276,000

**DATA REPORTED by CITIZENS for Cable Project 5**

Total Number of Cable-Feet for Project	Cable-Feet to be replaced in 1999	Actual Cable-Feet replaced to date (1999)	Project 5 Budget					Budget for Project
			1999	2000	2001	2002	2003	
6,900	1,380	0	\$55,200	\$55,200	\$55,200	\$55,200	\$55,200	\$276,000

**DATA REPORTED in UNSE Response for Cable Project 5**

Actual cable-feet Replaced in area	Total cable-feet to be replaced	Total cable-feet remaining	Project 5 Expenditures					Total Estimated Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	6,900	6,900	\$55,200 Completed	0	0	0	0	\$55,200

**Cable Project 6**  
**Tubac Country Club Valley Subdivision –**  
**Underground Cable Replacements – 4,300 total feet**

This project is in Tubac, a village south of the Pima County line, in the Tubac Country Club Valley subdivision. This project is planned to annually to replace 20% ( $4,300/5 =$ ) or 860 feet of underground cable, of the planned total project of 4,300 feet, during each year between 1999 and 2003 based on the funding profile. UNSE Response Exhibit 2 reported \$34,400 was expended to complete a \$172,000 project that installed 169.5% more cable than planned. This is neither realistic nor feasible as this equates to \$12.33 per cable-foot, considerably less the planned cost of \$40.00 and approximately 70% less than any other cable replacement project on a cost/foot basis. Using \$40/cable-foot, then \$34,400 expended is 860 feet of the 4,300 feet in this project. **The data from UNSE are erroneous, as \$137,600 could not have been expended to complete this project.**

Number of cable- feet documented to be replaced =	4,300 feet
<u>Actual cable-feet documented as being replaced</u> =	7,290 feet
Percent of cable-feet in project replaced = $7,290/4,300 =$	169.5%
Number of cable-feet not documented as replaced = $4,300 - 4,300 =$	0 feet remain
Cost per cable-foot to be replaced = $\$172,000/4,300 =$	\$40 per cable-foot
<b>Cost to complete Project = <math>\\$172,000 - \\$34,400 =</math></b>	<b>\$137,600</b>

**DATA REPORTED by CITIZENS for Cable Project 6**

Total Number of Cable-Feet for Project	Cable-Feet to be replaced in 1999	Actual Cable-Feet replaced to date (1999)	Project 6 Budget					Budget for Project
			1999	2000	2001	2002	2003	
4,300	1,380	2,790	\$34,400	\$34,400	\$34,400	\$34,400	\$34,400	\$172,000

**DATA REPORTED in UNSE Response for Cable Project 6**

Actual cable-feet Replaced in area	Total cable-feet to be replaced	Total cable-feet remaining	Project 6 Expenditures					Total Estimated Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	4,300	0	\$34,400 Completed	0	0	0	0	\$34,400

**Cable Project 7**  
**Palo Prado Subdivision –**  
**Underground Cable Replacements – 13,500 total feet**

This project is west of the Tubac village, in the Palo Prado subdivision. This project is planned to annually to replace 20% ( $13,500/5 =$ ) or 2,700 feet of underground cable, of the planned total project of 13,500 feet, during each year between 1999 and 2003 based on the funding profile. UNSE Response Exhibit 2 reported \$54,120 was expended to complete a \$531,200 project that installed no cable in 1999 that used ( $54,120/531,200 =$ ) 10.2% of the planned budget. If \$54,120 was expended in 1999, equating to 1,375 cable-feet (at \$39.35/foot), thus in 1999, only ( $1375/2700 =$ ) 50.9% of the first of five years work could have been accomplished. Thus, 12,125 feet of cable remain to be replaced for this project. **The data from UNSE are erroneous, thus approximately 12,125 cable-feet (budget at \$477,800) remains to be completed.**

Number of cable- feet documented to be replaced =	13,500 feet
<u>Actual cable-feet documented</u> as being replaced =	0 feet
Percent of cable-feet in project replaced = $0/13,500 =$	0.0%
Number of cable-feet not documented as replaced = $13,500 - 1,375 =$	12,125 feet remain
Cost per cable-foot to be replaced = $\$531,200/13,500 =$	\$39.35 per cable-foot
Cost to complete Project = $\$531,200 - 54,120 =$	\$477,800

**DATA REPORTED by CITIZENS for Cable Project 7**

Total Number of Cable-Feet for Project	Cable-Feet to be replaced in 1999	Actual Cable-Feet replaced to date (1999)	Project 7 Budget					
			1999	2000	2001	2002	2003	Budget for Project
13,500	2,706	0	\$106,240	\$106,240	\$106,240	\$106,240	\$106,240	\$531,200

**DATA REPORTED in UNSE Response for Cable Project 7**

Actual cable-feet Replaced in area	Total cable-feet to be replaced	Total cable-feet remaining	Project 7 Expenditures					
			1999	2000	2001	2002	2003	Total Estimated Expended on Project
Not reported by UNSE	13,500	12,125	\$54,120 Completed	0	0	0	0	\$54,120

**Cable Project 8**

**Empty Saddles Subdivision** □

**Underground Cable Replacements – 8,180 total feet**

This project is west of the Tubac village, in the Palo Prado subdivision. This project is planned to annually to replace 20% ( $8,180/5 =$ ) or 1,636 feet of underground cable, of the planned total project of 8,180 feet, during each year between 1999 and 2003 based on the funding profile. The UNSE Response Exhibit 2 data are erroneous. NO underground cable replacement work has been done in this subdivision (I live there) and replacing over 1.5 miles of underground cable in a 22 lot subdivision of about 110 acres would be noted by all residents.

Number of cable- feet documented to be replaced = 8,180 feet  
Actual cable-feet documented as being replaced = 8,180 feet  
Percent of cable-feet in project replaced =  $0/8,180 =$  0.0%  
Number of cable-feet not documented as replaced =  $8,180 - 0 =$  8,180 feet remain  
Cost per cable-foot to be replaced =  $\$327,200/8,180 =$  \$40 per cable-foot  
Cost to complete Project =  $8,180 * 40 =$  \$327,200

**DATA REPORTED by CITIZENS for Cable Project 8**

Total Number of Cable-Feet for Project	Cable-Feet to be replaced in 1999	Actual Cable-Feet replaced to date (1999)	Project 8 Budget					
			1999	2000	2001	2002	2003	Budget for Project
8,180	1,636	0	\$65,440	\$65,440	\$65,440	\$65,440	\$65,440	\$327,200

**DATA REPORTED in UNSE Response for Cable Project 8**

Actual cable-feet Replaced in area	Total cable-feet to be replaced	Total cable-feet remaining	Project 8 Expenditures					
			1999	2000	2001	2002	2003	Total Estimated Expended on Project
Not reported by UNSE	8,180	8,180	\$65,440 Completed	0	0	0	0	\$65,440

**Cable Project 9**

**Mt Hopkins – Underground Cable Replacements – 52,800 total feet**

This project is extends from the Amado substation (Kantor) to the Smithsonian Institute-Harvard observatory on the top of Mount Hopkins. This is a significant issue, as stated by the utility company in the Plan of Action"

"A significant portion of the cable replacements involves the underground feed to the top of Mount Hopkins. This cable was installed by a contractor in the 1970's, and was also direct buried. This cable has numerous faults. When a fault occurs, locating the faulted portion requires an entire crew. It should be noted that because this part of the county is so far from the rest of the service territory, if there is an outage that requires a crew from Nogales, it takes a minimum of an hour for them to get there."<sup>91</sup>

This project is planned to replace 21,3% ( $457,000/2147,000 * 52,800 =$ ) or 11,238 feet of underground cable in 1999, and 10,388 feet per year of the planned total project of 52,800 feet, during each year between 1999 and 2003 based on the funding profile.

<b>Number of cable- feet documented to be replaced =</b>	<b>52,800 feet</b>
<b><u>Actual cable-feet documented as being replaced =</u></b>	<b>0 feet</b>
Percent of cable-feet in project replaced = $14,157/52,800 =$	<b>0.0%</b>
Number of cable-feet not documented as replaced = $52,800 - 0 =$	<b>52,800 feet remain</b>
Cost per cable-foot to be replaced = $\$2,147,000/52,800 =$	<b>\$40.67 per cable-foot</b>
<b>Cost to complete Project = <math>52,800 * 40,67 =</math></b>	<b>\$2,147,000</b>

**DATA REPORTED by CITIZENS for Cable Project 9**

Total Number of Cable-Feet for Project	Cable-Feet to be replaced in 1999	Actual Cable-Feet replaced to date (1999)	Project 9 Budget					Budget for Project
			1999	2000	2001	2002	2003	
52,800	11,435	0	\$457,400	\$422,400	\$422,400	\$422,400	\$422,400	\$2,147,000

**DATA REPORTED in UNSE Response for Cable Project 9**

Actual cable-feet Replaced in area	Total cable-feet to be replaced	Total cable-feet remaining	Project 9 Expenditures					Total Estimated Expended on Project
			1999	2000	2001	2002	2003	
<b>Not reported by UNSE</b>	52,800	52,800	\$327,560	\$2,300	0	0	Completed	<b>\$329,860<sup>92</sup></b>

<sup>91</sup> Late-Filed Exhibits, Exhibit M-E, page 3 of 4.

<sup>92</sup> UNSE Response Exhibit 2 shows \$457,400 as "Estimated Cost" and "UNS Electric completed this project" in 2003 and an entry of \$2,300 expenditures for 2000.

**Cable Project 10**

**Meadow Hills Subdivision -**

**Underground Cable Replacements - 15,840 total feet**

This project is subdivision in the northern part of the City of Nogales, and is planned to annually to replace 20% ( $15,840/5 =$ ) or 3,168 feet of underground cable, of the planned total project of 15,840 feet, during each year between 1999 and 2003 based on the funding profile.

Number of cable- feet documented to be replaced = 15,840 feet  
Actual cable-feet documented as being replaced = 0 feet  
Percent of cable-feet in project replaced =  $0/15,840 =$  0.0%  
Number of cable-feet not documented as replaced =  $15,840 - 0 =$  15,840 feet remain  
Cost per cable-foot to be replaced =  $\$633,600/15,840 =$  \$40 per cable-foot  
Cost to complete Project =  $15,840 * 40 =$  \$633,600

**DATA REPORTED by CITIZENS for Cable Project 10**

Total Number of Cable-Feet for Project	Cable-Feet to be replaced in 1999	Actual Cable-Feet replaced to date (1999)	Project 10 Budget					Budget for Project
			1999	2000	2001	2002	2003	
28,160	3,168	0	\$126,720	\$126,720	\$126,720	\$126,720	\$126,720	\$633,600

**DATA REPORTED in UNSE Response for Cable Project 10**

Actual cable-feet Replaced in area	Total cable-feet to be replaced	Total cable-feet remaining	Project 10 Expenditures					Total Estimated Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	28,160	28,160	\$327,560 Completed	0	0	0	0	\$633,600

**Cable Project 11**  
**Canyon Del Oro/Vista Del Cielo area -**  
**Underground Cable Replacements - 4,500 total feet**

This project is along Canyon Del Oro Lane and Drive, and Camino Vista Del Cielo in northern eastern suburbs the City of Nogales, and is planned to annually to replace 20% ( $4,500/5 =$ ) or 900 feet of underground cable, of the planned total project of 4,500 feet, during each year between 1999 and 2003 based on the funding profile.

Number of cable- feet documented to be replaced = 4,500 feet  
Actual cable-feet documented as being replaced = 1,840 feet  
Percent of cable-feet in project replaced =  $1,840/4,500 =$  40.9%  
Number of cable-feet not documented as replaced =  $4,500 - 1,840 =$  2,880 feet remain  
Cost per cable-foot to be replaced =  $\$180,000/4,500 =$  \$40 per cable-foot  
Cost to complete Project =  $2,880 * 40 =$  \$115, 200

**DATA REPORTED by CITIZENS for Cable Project 11**

Total Number of Cable-Feet for Project	Cable-Feet to be replaced in 1999	Actual Cable-Feet replaced to date (1999)	Project 11 Budget					Budget for Project
			1999	2000	2001	2002	2003	
4,500	900	1,840	\$36,000	\$36,000	\$36,000	\$36,000	\$36,000	\$180,000

**DATA REPORTED in UNSE Response for Cable Project 11**

Actual cable-feet Replaced in area	Total cable-feet to be replaced	Total cable-feet remaining	Project 11 Expenditures					Total Estimated Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	4,500	2,880	\$36,00 Completed	0	0	0	0	\$36,000

## Cable Project 12

### Rio Rico Resort – Underground Cable Replacements – 1,828 total feet

The Rio Rico Resort is in Rio Rico, a suburban community, north of the City of Nogales, and is the largest hotel/convention center complex in the County. This project is planned to annually to replace 20% ( $1,828/5 =$ ) or 5,632 feet of underground cable, of the planned total project of 1,828 feet, during each year between 1999 and 2003 based on the funding profile.

Number of cable- feet documented to be replaced =	1,828 feet
<u>Actual cable-feet documented as being replaced =</u>	1,828 feet
Percent of cable-feet in project replaced = $0/1,828 =$	0.0%
Number of cable-feet not documented as replaced = $1,828 * 0 =$	1,828 feet remain
Cost per cable-foot to be replaced = $\$73,130/1,828 =$	\$40.00 per cable-foot
Cost to complete Project = $1,828 * 40 =$	\$73,130

#### DATA REPORTED by CITIZENS for Cable Project 12

Total Number of Cable-Feet for Project	Cable-Feet to be replaced in 1999	Actual Cable-Feet replaced to date (1999)	Project 12 Budget					Budget for Project
			1999	2000	2001	2002	2003	
1,828	366	0	\$14,624	\$14,624	\$14,624	\$14,624	\$14,624	\$73,130

#### DATA REPORTED in UNSE Response for Cable Project 12

Actual cable-feet Replaced in area	Total cable-feet to be replaced	Total cable-feet remaining	Project 12 Expenditures					Total Estimated Expended on Project
			1999	2000	2001	2002	2003	
Not reported by UNSE	1,828	1,828	\$14,624 Completed	0	0	0	0	\$14,624



1 Exhibit M-H

2 Quotes from the Magruder Testimony in the Reliability Case<sup>93</sup>

3  
4 1. From Appendix C, Electric Reliability Data for Santa Cruz Service Area, 1994-2004", page 109.

5 Quote:

6 C.1 Total Numbers of Interruptions/Outages per Year.

7 Table C-1 shows the number of interruptions for each year. They are in two groups, outages  
8 that occurred during major storms and all other outages. The total for each year and by outage type is  
9 provided. This data was faithfully compiled from these reports, using the "year to date" totals found in  
10 the December report. There were a total of 4,362 interruptions in this 10-year period or an average of  
11 436.2 per year.

12 It should be noted that "supplier" means an outage prior to reaching the Nogales Tap in  
13 Tucson, due to either a generation outage or to an outage involving the Western Area Power  
14 Administration (WAPA) transmission system. Due to the four supplier outages between 1994 and  
15 1998, Citizens installed a switch at the Nogales Tap that automatically will use power from a second  
16 source. Due to this ability to have redundant sources, there have been no supplier outages since that  
17 time.

18 Table C-1 Number of Interruptions this year.

Year	Major Storms			All Other Outages				Total
	Supplier	Transmission	Dist	Supplier	Trans	Dist	Sched	
1994	0	0	197	1	0	209	0	407
1995	0	0	125	0	0	282	0	407
1996	1	0	142	0	1	188	0	332
1997	0	0	311	0	0	212	0	523
1998	0	1	308	2	1	272	0	584
1999	0	3	247	0	0	211	2	463
2000	0	6	277	0	0	126	9	418
2001	0	5	198	0	0	196	6	405
2002	0	0	112	0	0	191	6	309
2003	0	3	300	0	0	193	18	514
2004	0	0	NA	0	0	NA	NA	NA
Totals	1	18	2217	3	2	2080	41	4362

25 End Quote

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34 <sup>93</sup> Re-opened ACC Docket No. E-01032A-99-0401 and ACC Order No. 62011, Magruder Testimony, of 8 July  
35 2005. The footnotes are the same as in the reference; however, they are renumbered sequentially herein.

2. From Appendix C, Electric Reliability Data for Santa Cruz Service Area, 1994-2004", Appendix E<sup>94</sup>.

Quote:

**E.3.2 Other Planned Improvements NOT Dependent On The Second Transmission Line.**

- a. Replacing poles. A plan is presented to replace 3,060 poles which "have reached the end of their life cycle"<sup>95</sup> during 1999 costing \$4,320,000, in 2000 for \$4,285,000 for \$1,190,000, in 2001, 2002, and 2003. There are 20 different pole replacement projects listed. A "progress to date" shows that 634 poles had been replaced for the estimated 616 as of this report. Table E.3.2-1 below shows the plan for replacing these above ground poles.<sup>96</sup>

**Table E.3.2-1 Above Ground Replacement Pole Plan.** It should be noted that the 1999 estimates and "to date" actual installations do not meet the planned number of replacements.

ID	Pole Replacement Project	Total No of Poles	1999 Est. No.	Poles to date	1999 Plan (\$)	2000 (\$)	2001 (\$)	2002 (\$)	2003 (\$)
1	Nogales West area	75	75	26	300,000	0	0	0	0
2	Nogales West north area	75	15	28	90,000	30,000	30,000	30,000	30,000
3	Reconductor Mariposa Industrial Park	75	1	1	90,000	75,000	0	0	0
4	Downtown Southeast	300	60	74	360,000	120,000	120,000	120,000	120,000
5	Downtown Northwest	300	60	115	360,000	120,000	120,000	120,000	120,000
6	Downtown Southwest	500	100	91	474,000	200,000	200,000	200,000	200,000
7	Downtown Northeast	300	60	20	360,000	120,000	120,000	120,000	120,000
8	Beatus Estates	150	0	0	180,000	60,000	60,000	60,000	60,000
9	Valle Verde	150	30	106	180,000	60,000	60,000	60,000	60,000
10	Chula Vista	50	2	0	60,000	20,000	20,000	20,000	20,000
11	Activate Circuit 6242	100	0	0	180,000	60,000	60,000	60,000	60,000
12	Circuit 6241	50	10	0	60,000	20,000	20,000	20,000	20,000
13	Meadow Hills North	75	15	0	90,000	30,000	30,000	30,000	30,000
14	Meadow Hills South	75	15	0	90,000	30,000	30,000	30,000	30,000
15	Transmission Line	20	2	0	320,000	0	0	0	0
16	Highway 82	250	60	148	275,000	120,000	120,000	120,000	120,000
17	Old Tucson Road	10	10	9	25,000	0	0	0	0
18	Rio Rico Highway Crossing	0	0	0	126,000	0	0	0	0
19	Rio Rico Industrial Park	25	1	16	100,000	0	0	0	0
20	Flux Canyon area	500	100	0	600,000	200,000	200,000	200,000	200,000
Totals		3,080	616	634	\$4,320,000	\$1,265,000	\$1,190,000	\$1,190,000	\$1,190,000

- b. Replacing underground cable. A plan is presented to replace 159,388 total feet of underground cable during 1999 costing \$1,310,104, in 2000, 2001, 2002 and 2003 for \$1,275,104, in 2001, 2002, and 2003. There are 12 different underground cable replacement projects listed with replacements required in Rio Rico and Tubac having the highest priority. A

<sup>94</sup> Appendix E, Reliability Agreement Agreed to by Citizens in 1999 and Subsequent Compliance, Section E.3, Citizens "Supplement to Santa Cruz Electric Division Transmission Alternative and Plan of Action, paragraph E.3.2, Other Planned Improvements NOT Dependent on the Second Transmission Line, pages 135 to 137. Footnotes from this Testimony have been changed to be in sequence with the filing in the present case. When a document title has been abbreviated, its full title is used.

<sup>95</sup> *Ibid.* PDF page 52.

<sup>96</sup> In Supplemental POA, PDF pages 26, 41, 43, 45, and 52. [it is noted that these pages are unnumbered.]

"progress to date" shows that 25,741 actual feet of cable had been replaced for the 32,753 feet estimated as of this report. Table E.3.2-2 below shows the plan for replacing these above underground cables that Citizens indicated were low reliability due to directly buried cable and for replacing old cable with high failure rates.<sup>97</sup> It should be noted that many of the cable replacements in the progress to date column were significantly over-ran the estimated number of feet versus actual number of feet.

**Table E.3.2-2 Below Ground Replacement Cable Plan.** *It should be noted that the 1999 estimates and "to date" actual installations do not meet the planned number of replacements.*

ID	Underground Cable Replacement Project	Total Feet	1999 Est. Ft.	Ft. to date	1999 Plan (\$)	2000 (\$)	2001 (\$)	2002 (\$)	2003 (\$)
1	Mariposa Manor	7,677	1,535	0	61,416	61,416	61,416	61,416	61,416
2	Monte Carlo	12,040	2,408	2,454	96,320	96,320	96,320	96,320	96,320
3	Rio Rico Urban 3	28,160	5,632	14,157	225,280	225,280	225,280	225,280	225,280
4	Preston Trailer Park	3,633	727	0	29,064	29,064	29,064	29,064	20,064
5	Tubac Country Club	6,900	1,380	0	55,200	55,200	55,200	55,200	55,200
6	Tubac Valley County Club	4,300	860	7,290	34,400	34,400	34,400	34,400	34,400
7	Palo Parado	15,530	2,706	0	108,240	108,240	108,240	108,240	108,240
8	Empty Saddle Estates	8,180	1,636	0	65,440	65,440	65,440	65,440	65,440
9	Mt. Hopkins	52,800	11,435	0	457,000	422,400	422,400	422,400	422,400
10	Meadow Hills	15,840	3,168	0	126,720	126,720	126,720	126,720	126,720
11	Canyon Del Oro/Vista Del Cielo	4,500	900	1,840	36,000	36,000	36,000	36,000	36,000
12	Rio Rico Resort	1,828	366	0	14,624	14,624	14,624	14,624	14,624
Totals		161,388	32,753	25,741	\$1,310,104	\$1,275,104	\$1,275,104	\$1,275,104	\$1,275,104

End Quote

<sup>97</sup> *Ibid*, PDF pages 26, 42, 43, 45, 52 and 53.

RECEIVED


2008 AUG 25 P 3: 42

**MIKE GLEASON - CHAIRMAN**  
**WILLIAM A. MUNDELL**  
**JEFF HATCH-MILLER**  
**KRISTIN K. MAYES**  
**GARY PIERCE**

Arizona Corporation Commission  
**DOCKETED**

AUG 25 2008

DOCKETED BY



IN THE MATTER OF THE APPLICATION OF	)	DOCKET NO. E-04204A-06-0783
UNS ELECTRIC, INC. FOR THE	)	
ESTABLISHMENT OF JUST AND	)	
REASONABLE RATES AND CHARGES	)	<b>UNS ELECTRIC, INC.'S</b>
DESIGNED TO REALIZE A REASONABLE	)	<b>COMPLIANCE FILING</b>
RATE OF RETURN ON THE FAIR VALUE OF	)	<b>REGARDING PROCEDURES FOR</b>
THE PROPERTIES OF UNS ELECTRIC, INC.	)	<b>OUTAGE NOTIFICATION FOR</b>
DEVOTED TO ITS OPERATIONS	)	<b>LIFE SUPPORT CUSTOMER</b>
THROUGHOUT THE STATE OF ARIZONA	)	<b>(DECISION NO. 70360)</b>
AND REQUEST FOR APPROVAL OF	)	
RELATED FINANCING.	)	

UNS Electric, Inc. ("UNS Electric" or the "Company"), through undersigned counsel and pursuant to Decision No. 70360 (May 27, 2008), hereby submits its compliance filing regarding the Company's procedures for notifying customers on life support equipment during an outage. UNS Electric provides the following information:

Decision No. 70360 directed the Company to file within 90 days of the effective date of the Decision a statement regarding its procedures for notifying customers on life support during an outage and suggested changes, if any.

UNS Electric currently identifies "life support" customers through a Customer Assistance Residential Energy Support Low-Income Medical Life Support Program ("C.A.R.E.S.-M") available in all service territories served by the Company. The C.A.R.E.S.-M discount is available to all qualified low-income customers who require the use of life support equipment in their homes. In order to be eligible for the C.A.R.E.S.-M Program, an electric service customer submits to UNS Electric a Residential Discount Program Application. This Application is

1 provided to customers in brochure form; a copy of the brochure is attached hereto as Exhibit A.  
2 The amount of the discount is calculated based on monthly usage, with larger percentage discounts  
3 available to customers who use less energy:

Electric Discounts Monthly Energy Use	Discount
0 - 600 kWh	30%
601 - 1,200 kWh	20%
1,201 - 2,000 kWh	10%
over 2,000 kWh	\$8

4  
5  
6  
7  
8  
9 UNS Electric currently does not notify life support customers of outages. Instead, UNS Electric  
10 uses its best efforts to reconnect life support customers first in the event of an outage.

11       UNS Electric and the Santa Cruz County Sheriff's Department ("Sheriff's Department")  
12 have discussed notification to life support customers. The Sheriff's Department has indicated that  
13 it would like to be aware of customers with sensitive electric load requirements to use as a cross-  
14 reference for safety purposes. The Sheriff's Department has agreed to retain a list of life support  
15 customers' names. However, as of this date, the Sheriff's Department has not assumed the  
16 obligation to contact life support customers.

17       UNS Electric is now in the process of contacting, via telephone, all of the currently  
18 enrolled Santa Cruz County C.A.R.E.S.-M Program participants to inform them that, with their  
19 written permission, UNS Electric will be providing the Sheriff's Department their names,  
20 addresses, telephone numbers and their current status as a life support program enrollee. The  
21 telephone contact will be followed by a written request to release information regarding the  
22 customer's status as a C.A.R.E.S.-M Program participant; this written request is attached hereto as  
23 Exhibit B. UNS Electric will not release information to any agency without the prior written  
24 consent of the customer. UNS Electric will also be adding appropriate text to its website,  
25 identifying this addition to the C.A.R.E.S.-M Program. Any new C.A.R.E.S.-M Program  
26 participants will be asked for written authorization to release their information to public safety  
27 agencies at the time they apply for the program.

1  
2 RESPECTFULLY SUBMITTED this 25<sup>th</sup> day of August 2008.

3 UNS ELECTRIC, INC.

4 By Michelle Livengood  
5 Michelle Livengood  
6 UniSource Energy Services  
7 One South Church Avenue  
8 Tucson, Arizona 85702

9 and

10 Michael W. Patten  
11 ROSHKA DEWULF & PATTEN, PLC.  
12 One Arizona Center  
13 400 East Van Buren Street, Suite 800  
14 Phoenix, Arizona 85004

15 Attorneys for UNS Electric, Inc.

16 Original and thirteen copies of the foregoing  
17 filed this 25<sup>th</sup> day of August 2008, with:

18 Docket Control  
19 Arizona Corporation Commission  
20 1200 West Washington Street  
21 Phoenix, Arizona 85007

22 Copies of the foregoing  
23 mailed this 25<sup>th</sup> day of August 2008, to:

24 Compliance  
25 Director, Utilities Division  
26 Arizona Corporation Commission  
27 1200 West Washington Street  
Phoenix, Arizona 85007

By Mary Spolite

Exhibit  
MM-13  
Page 4 of 8 pages

## **Exhibit A**

# We Care about those on a limited income.

¿Desea obtener la información  
en español?  
La información sobre el Programa de Descuento  
Residencial "CARES" también es publicada  
en español. Para recibir dicha información  
por favor llame al departamento de servicios  
al cliente al 1-877-837-4968. Nuestro personal  
bilingüe le atenderá.

UniSourceEnergy  
SERVICES

Exhibit  
MM-13  
Page 5 of 8 pages

UniSourceEnergy  
SERVICES

Telephone: 1-877-428-4YOU  
(1-877-437-4968)  
Customer Care Center Hours:  
7:00 a.m. - 7:00 p.m. - Mon. - Fri.  
For further information visit [uesaz.com](http://uesaz.com).

## Residential Discount Program Application

Please print the following information. Tear off the  
reply card and return to: UniSource Energy Services,  
ATTN: CARES, 2901 W Shattell Blvd, Suite 110,  
Flagstaff, Arizona 86001-9965. Incomplete information  
will delay your application.

Name \_\_\_\_\_  
Do it yourself on your bill

Service Address (see P.2, line) \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Home Telephone ( ) \_\_\_\_\_

Date of Birth \_\_\_\_\_

Social Security No. \_\_\_\_\_

UES Account No. \_\_\_\_\_  
All it takes is your bill

Permission is hereby granted to UniSource Energy Services to contact  
any sources necessary to establish the accuracy of information given  
by me or other information that pertains to the verification of my  
eligibility to receive services under the CARES/Medical Life-Support  
Discount. I further understand that the disclosure of my Social  
Security Number is voluntary and not mandatory, and will only  
be used for the purposes stated herein.

I understand that if I become ineligible for this discount, I must notify  
UES immediately. I further understand that if I receive a new application  
is required and that the discount will not be applied at the new  
address until the new application has been received and approved.

The signature below certifies under penalties of perjury that all  
information relative to eligibility is correct. Any person obtaining a  
discount based on false information may be prosecuted and required  
to repay discount amounts.

Signature as listed  
on Household \_\_\_\_\_

Today's Date \_\_\_\_\_

For Office Use Only

Date Received \_\_\_\_\_ Effective Date \_\_\_\_\_

Completed By \_\_\_\_\_

To be eligible for the CARES Program,  
you must verify the following:

- I am a UES residential electric customer.
- The UES bill is in my name.
- My household gross income is at or below 150% of  
the federal poverty level. By checking one of the  
boxes below, I am indicating the monthly income  
eligibility limit that applies to my household and me.

Check One	Number of People in Household	Income At or Under
<input type="checkbox"/>	1	\$ 1,301
<input type="checkbox"/>	2	\$ 1,751
<input type="checkbox"/>	3	\$ 2,201
<input type="checkbox"/>	4	\$ 2,651
<input type="checkbox"/>	5	\$ 3,101
<input type="checkbox"/>	6	\$ 3,551
<input type="checkbox"/>	7	\$ 4,001
<input type="checkbox"/>	8	\$ 4,451
<input type="checkbox"/>	9	\$ 4,901
<input type="checkbox"/>	10	\$ 5,351
<input type="checkbox"/>	More than 10	\$5,351 plus \$ 450*

\*for each additional person

Check One

☐ My household is eligible for the CARES Discount.

☐ My household is eligible for the CARES/Medical Life-Support  
Discount. I will provide the physician's verification upon request.

I obtained my application at the following location:

Local Office (write in name) \_\_\_\_\_

Other (write in name) \_\_\_\_\_





NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES



**BUSINESS REPLY MAIL**

FIRST-CLASS MAIL PERMIT NO. 112 FLAGSTAFF, AZ

POSTAGE WILL BE PAID BY ADDRESSEE

UNISOURCE ENERGY SERVICES  
ATTN: UNS-ELECTRIC CARES  
2901 W SHAMRELL BLVD SUITE 110  
FLAGSTAFF AZ 86001-9965



Think about it...  
You could be eligible for a  
discount on your electric bill.  
To qualify for either program, your household's  
combined gross monthly income must be equal to  
or less than:

Income Guidelines\*

Number of People in Household	Income Limit per Month
1	\$1,000
2	\$1,500
3	\$2,000
4	\$2,500
5	\$3,000
6	\$3,500
7	\$4,000
8	\$4,500
9	\$5,000
10	\$5,500
11	\$6,000
12	\$6,500
13	\$7,000
14	\$7,500
15	\$8,000
16	\$8,500
17	\$9,000
18	\$9,500
19	\$10,000
20	\$10,500
21	\$11,000
22	\$11,500
23	\$12,000
24	\$12,500
25	\$13,000
26	\$13,500
27	\$14,000
28	\$14,500
29	\$15,000
30	\$15,500
31	\$16,000
32	\$16,500
33	\$17,000
34	\$17,500
35	\$18,000
36	\$18,500
37	\$19,000
38	\$19,500
39	\$20,000
40	\$20,500
41	\$21,000
42	\$21,500
43	\$22,000
44	\$22,500
45	\$23,000
46	\$23,500
47	\$24,000
48	\$24,500
49	\$25,000
50	\$25,500
51	\$26,000
52	\$26,500
53	\$27,000
54	\$27,500
55	\$28,000
56	\$28,500
57	\$29,000
58	\$29,500
59	\$30,000
60	\$30,500
61	\$31,000
62	\$31,500
63	\$32,000
64	\$32,500
65	\$33,000
66	\$33,500
67	\$34,000
68	\$34,500
69	\$35,000
70	\$35,500
71	\$36,000
72	\$36,500
73	\$37,000
74	\$37,500
75	\$38,000
76	\$38,500
77	\$39,000
78	\$39,500
79	\$40,000
80	\$40,500
81	\$41,000
82	\$41,500
83	\$42,000
84	\$42,500
85	\$43,000
86	\$43,500
87	\$44,000
88	\$44,500
89	\$45,000
90	\$45,500
91	\$46,000
92	\$46,500
93	\$47,000
94	\$47,500
95	\$48,000
96	\$48,500
97	\$49,000
98	\$49,500
99	\$50,000
100	\$50,500

\*For each additional person  
add \$500.  
\*2004 Federal Poverty Income Guidelines.  
Effective May 1, 2004 through May 31, 2005.

If you are eligible and sign up for either  
program, UES automatically will calculate  
the appropriate discount on your monthly bill.

You can obtain more information on this and  
other payment options by visiting [uesaz.com](http://uesaz.com)  
or calling our Customer Care Center at  
1-877-UES-4YOU (1-877-837-4968).

CARES/Medical  
Life-Support Discount  
A Medical Life-Support Discount is available to  
households that meet the financial eligibility guide-  
lines for the CARES Program and where certain  
medical situations exist.

Monthly Energy Use Discount

Monthly Energy Use	Discount
1	10%
2	15%
3	20%
4	25%
5	30%
6	35%
7	40%
8	45%
9	50%
10	55%
11	60%
12	65%
13	70%
14	75%
15	80%
16	85%
17	90%
18	95%
19	100%
20	105%
21	110%
22	115%
23	120%
24	125%
25	130%
26	135%
27	140%
28	145%
29	150%
30	155%
31	160%
32	165%
33	170%
34	175%
35	180%
36	185%
37	190%
38	195%
39	200%
40	205%
41	210%
42	215%
43	220%
44	225%
45	230%
46	235%
47	240%
48	245%
49	250%
50	255%
51	260%
52	265%
53	270%
54	275%
55	280%
56	285%
57	290%
58	295%
59	300%
60	305%
61	310%
62	315%
63	320%
64	325%
65	330%
66	335%
67	340%
68	345%
69	350%
70	355%
71	360%
72	365%
73	370%
74	375%
75	380%
76	385%
77	390%
78	395%
79	400%
80	405%
81	410%
82	415%
83	420%
84	425%
85	430%
86	435%
87	440%
88	445%
89	450%
90	455%
91	460%
92	465%
93	470%
94	475%
95	480%
96	485%
97	490%
98	495%
99	500%
100	505%

To be eligible for the CARES/Medical Life  
Support Program, a customer must meet the fol-  
lowing requirements:

- Require the use of medical equipment that is  
considered essential for sustaining life and is  
operated at the residence.
- Submit to UES, a signed statement from  
attending physician on his/her office letterhead  
or page/sheet of official prescription pad, verify-  
ing that the customer is medically life-support  
dependent and the type of essential medical  
equipment that is in use at the residence.
- The patient will be required to re-certify with  
his/her physician every two years.

The following equipment is representative of that  
which may be qualified as being essential under  
the program: ventilator, oxygen concentrator,  
peritoneal dialysis cycler, bemo dialysis equip-  
ment, feeding pump, infusion pump, suction  
machine, small volume nebulizer or an oximeter.

CARES Discount  
If you're having trouble making ends meet,  
UnSource Energy Services (UES) would like to  
help. Our Customer Assistance Residential Energy  
Support (CARES) program offers discounts  
designed to help low-income customers pay their  
electric bills.

To be eligible for this discount, you must:

- Be a UES residential electric customer.
- Have the UES account in your name.
- Have a combined household income at or  
below 150% of the federal poverty level.  
See *Income Guidelines chart*.

Monthly Energy Use Discount

Monthly Energy Use	Discount
1	10%
2	15%
3	20%
4	25%
5	30%
6	35%
7	40%
8	45%
9	50%
10	55%
11	60%
12	65%
13	70%
14	75%
15	80%
16	85%
17	90%
18	95%
19	100%
20	105%
21	110%
22	115%
23	120%
24	125%
25	130%
26	135%
27	140%
28	145%
29	150%
30	155%
31	160%
32	165%
33	170%
34	175%
35	180%
36	185%
37	190%
38	195%
39	200%
40	205%
41	210%
42	215%
43	220%
44	225%
45	230%
46	235%
47	240%
48	245%
49	250%
50	255%
51	260%
52	265%
53	270%
54	275%
55	280%
56	285%
57	290%
58	295%
59	300%
60	305%
61	310%
62	315%
63	320%
64	325%
65	330%
66	335%
67	340%
68	345%
69	350%
70	355%
71	360%
72	365%
73	370%
74	375%
75	380%
76	385%
77	390%
78	395%
79	400%
80	405%
81	410%
82	415%
83	420%
84	425%
85	430%
86	435%
87	440%
88	445%
89	450%
90	455%
91	460%
92	465%
93	470%
94	475%
95	480%
96	485%
97	490%
98	495%
99	500%
100	505%

Exhibit

MM-13

Page 7 of 8 pages

## **Exhibit B**

Exhibit B



P.O. Box 711, SC122  
Tucson, Arizona 85702-0711  
(877) UES - 4YOU (837-4968)

**RE: Life Support Equipment**

Dear (customer),

UNS Electric, Inc. ("UNS Electric") records indicate you or someone at your residence is currently utilizing life support equipment. The Santa Cruz County Sheriff's Department requested that UNS Electric identify its customers with sensitive electrical load requirements to use as a cross-reference for safety purposes.

With your permission, UNS Electric will provide Santa Cruz County Sheriff's Office with your name, address and telephone number, and a general statement that you are a life support customer; no additional information, personal, account, or otherwise, will be provided. As the customer of record, UNS Electric will release your information only upon your written consent. **If you agree, please sign and return this letter in the enclosed envelope. If you do not consent, no response is necessary.**

If you have any questions, please feel free to contact Lindy Sheehey, Manager of Customer Service at (520)745-3343.

Sincerely,

UNS Electric, Inc.  
Customer Service

- 
- ☐ Yes, please share my information with the Santa Cruz County Sheriff's Department.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

ORIGINAL

BEFORE THE ARIZONA CORPORATION

RECEIVED

2008 SEP 25 P 12: 50

ARIZONA CORPORATION  
DOCKET CONTROL

COMMISSIONERS  
Mike Gleason, Chairman  
William A. Mundell  
Jeff Hatch-Miller  
Kristin K. Mayes  
Gary Pierce

IN THE MATTER OF THE  
APPLICATION OF UNS ELECTRIC,  
INC. FOR APPROVAL OF THE  
ESTABLISHMENT OF JUST AND  
REASONABLE RATES AND  
CHARGES DESIGNED TO REALIZE A  
REASONABLE RATE OF RETURN ON  
THE FAIR VALUE OF THE  
PROPERTIES OF UNS ELECTRIC,  
INC.

Docket No. E-04204A-06-0783

Notice and Filing of the Marshall Magruder  
Rebuttal to the UNSE Compliance Filing  
Regarding Procedures for Outage  
Notification for Life-Support Customers  
24 September 2008

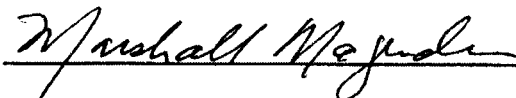
This is the Marshall Magruder Rebuttal to the UNS Electric Inc. Response of 25 August 2008 regarding the procedures for outage notification of life-support customers. The UNSE Response was not distributed to all Parties, including ACC Staff, RUCO or myself, is incomplete, and non-compliant with ACC Decision No. 70360 Order.

I certify this filing notice has been mailed to all known and interested parties, as shown on the Service List.

Respectfully submitted on this 24<sup>th</sup> day of September 2008

MARSHALL MAGRUDER

By



Marshall Magruder  
PO Box 1267  
Tubac, Arizona 85646  
(520) 398-8587  
[marshall@magruder.org](mailto:marshall@magruder.org)

Arizona Corporation Commission

DOCKETED

SEP 25 2008



**Service List**

Original and 18 copies of the foregoing are filed this date:

**Docket Control** (13 copies)

**Arizona Corporation Commission**

1200 West Washington Street

Phoenix, Arizona 85007-2927

**Dwight Nodes**, Chief Administrative Law Judge (1 copy)

**Tenna Wolfe**, Administrative Law Judge (1 copy)

**Ernest G. Johnson**, Director Utilities Division (1 copy)

**Janice Alward**, Chief Counsel (1 copy)

**Maureen Scott**, Senior Staff Counsel (1 copy)

Additional Distribution (1 copy each, Filing Notice only to attorneys for PWCC and APS):

**Michael W. Patten**, Attorney for the Applicant

Roshka, DeWulf & Patten, PLC

One Arizona Center

400 East Van Buren Street, Suite 800

Phoenix, Arizona 85004-2262

**Dan Pozefsky**, Chief Counsel

Residential Utility Consumer Office

(RUCO)

1110 West Washington Street, Ste 220

Phoenix, Arizona 85007-2958

**Raymond S. Heyman**, Corporate Counsel

**Michelle Livengood**, Attorney

UniSource Energy Services

One South Church Avenue, Ste 200

Tucson, Arizona 85701-1621

Filing Notice only (1 copy each of filing notice)

**Robert J. Metli**, Attorney for PWCC and APS

Snell & Wilmer, L.L.P.

One Arizona Center

400 East Van Buren Street

Phoenix, Arizona 85004-2202

**Thomas L. Mumaw**, Attorney for PWCC

**Deborah A. Scott**, Attorney for PWCC

Pinnacle West Capital Corporation

P. O. Box 53999, Mail Station 8695

Phoenix, Arizona 85072-3999

**Barbara A. Clemstine**, Attorney for APS

Arizona Public Service Company

P. O. Box 53999, Mail Station 9708

Phoenix, Arizona 85072-3999

Interested Parties (1 copy each) are filed this date by mail:

Santa Cruz County Supervisors:

**John Maynard**, Supervisor

**Tony Estrada**, County Sherriff

**Louis Parra**, Assistant Santa Cruz

County Attorney

Santa Cruz County Complex

2150 North Congress Drive

Nogales, Arizona 85621-1090

City of Nogales

**John Kissinger**, Assistant City Manager

**José Machado**, City Attorney

**Michael Massee**, Assistant City Attorney

**Nogales Police Chief Ybarra**

Nogales City Hall

777 North Grand Avenue

Nogales, Arizona 85621-22621

**MARSHALL MAGRUDER  
REBUTTAL  
TO THE**

**UNSE COMPLIANCE FILING  
REGARDING PROCEDURES FOR  
OUTAGE NOTIFICATION FOR  
LIFE-SUPPORT CUSTOMERS**

**16 SEPTEMBER 2009**

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## SUMMARY

During the UNSE Rate Case, I determined an important safety concern has been omitted from consideration by the Commission, ACC Staff and the company. Some customers are on life-support equipment that use electricity; however, this is interrupted during an electrical outage. It is incumbent upon the utility to consider their customer's safety as a primary concern.<sup>1</sup> Law enforcement and other first responders have legal obligations to provide for public safety. The Commission can resolve these two safety issues by establishing a notification process to ensure an electrical outage does not threaten the life of any life-support customer.

### 1. Background.

The Santa Cruz service area averages over 200 distribution outages annually. Some involve only one customer; others the entire service area. Each customer is on an electrical circuit, known by the company. Each customer has an address, known by the company. The County Sheriff (or Police Chief in the City of Nogales) coordinates the 911 Emergency Response Centers.

### 2. Example of a Notification Process.

The utility knows when and where an electrical outage occurs, and from its address files, a customer's circuit. If the company sorted known life-support customers by circuit, the TEP Operations Center (that serves Santa Cruz UNSE customers) can easily determine other life-support customers also having an outage on that circuit. Using a prepared list of life-support customers, arranged by circuit, and sorted by a consecutive ID number, the TEP Operations Center can rapidly inform the Santa Cruz County Sheriff Emergency Response Center, that "customers numbered ABC to XYZ, are experiencing an outage that started at HHMM (time)".

Upon Receipt, the Emergency Response Center matches the same address list provided by the company, determines and notifies the appropriate First Responder (fire, EMT, law enforcement) to "checkup" on that person. If telephones are operable, a phone check might suffice or on-site address may be required. The objective is every person on life-support during any electrical outage will be determined safe and/or transported to an appropriate medical facility.

### 3. UNSE Rate Case Results.

This process is straight forward but was resisted during the hearings. If the resultant ACC Order did not include this issue, it would have died when the case concluded. The UNSE

<sup>1</sup> Surrebuttal Testimony of Marshall Magruder, page 52, indicates this issue was first raised by Commissioner Gleason during the 2005 Santa Cruz Reliability hearings in ACC Docket No. E-01032A-99-0401.



"compliance" report of 25 August 2008 indicated this issue remains incomplete and additional reports are necessary for implementation of the ordered action.

#### 4. UNSE Misunderstandings.

The UNSE filing shows a misunderstanding of three critical elements in this process:

- a. This notification process is for ALL customers, not just a subset of the lower income customers signed up for the CARES-M program.
- b. The existing CARES-M (or a new life support) application must be modified to include ALL customers and with additional information as to any backup power capabilities, usually batteries, normally available to the person on life support.
- c. Law enforcement has been authorized access to utility customer lists without customer permission according to the Arizona Administrative Code 14-14-2-203A(3)<sup>2</sup> as individual customer approval is not necessary; however, a new Life Support Application should have an "opt out" provision. Include on the application this permission.

#### 5. Conclusions.

Without resolving these three issues, a process now being proposed by the Company in its 25 August 2008 letter is inadequate. Most life-support dependent customers are not CARES-M customers and law enforcement is authorized to have access customer lists. Only a small percentage of customers would be included in this program.<sup>3</sup>

#### 6. Recommendations:

1. That UNSE design and provide annually a new life-support customer application for all customers including an "opt out" provision and information release statement to law enforcement, at least once a year, in customer billing statements and on the company website.
2. That UNSE enter into a mutual support agreement with the County Sheriff to provide notifications of life-support customers.
3. That any resultant County-UNSE mutual support agreement(s) be implemented.
4. That UNSE notify all parties in this case as 1, 2 and 3 are accomplished.

<sup>2</sup> A.A.C R14-2-203A (2) states "Customer-specific information shall not be released without specific prior written customer authorization unless the information is requested by a law enforcement officer or other public agency... or is necessary to provide safe and reliable service to the customer." [Emphasis added]. This process meets both these criteria for the Sheriff to have limited customer information for notification of life-support customers during an outage. This quote is in the Magruder Testimony in this case.

<sup>3</sup> In a 1999 City of Nogales-Citizens Settlement Agreement, customer lists were provided to the City without customer permission. I estimate less than 3% of every person serviced is on life-support equipment.